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C.R.P.No.3472 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3472 of 2022

and

C.M.P.No.18573 of 2022

R.Saravanan

... Petitioner

-Vs-

1. R.Shanthi
2. R.Kalaivani
3. C.D.Jayalakshmi
4. R.Srinivasan
5. R.Karunakaran

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 12.09.2022 made in unnumbered I.A. In CFR No.5915 of 2022 in O.S.No.7 of 2015 on the file of the Principal Subordinate Court, Krishnagiri.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.R.V.Agilan for R1 to R3

Mr. S.Pattabiraman for R4 & R5



C.R.P.No.3472 of 2022

WEB COPY

ORDER

Challenging the impugned order dated 12.09.2022 made in unnumbered I.A.No. In CFR No.5915 of 2022 in O.S.No.7 of 2015 on the file of the Principal Subordinate Court, Krishnagiri, the Revision Petitioner/1st defendant preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioner filed an application under Sec.45 of Evidence Act r/w Sec.151 of C.P.C. seeking for the relief of Senior/Chief Ministerial Officer of the court to collect the sample signatures on the original agreement dated 15.03.2013 (Ex.A7) from this court to examine the handwriting and apply to the Tamil Nadu Forensic Department and further to direct the expert to submit a report after comparison of the signature. He would submit that he along with other person not executed any agreement dated 15.03.2013 as claimed by the plaintiff and his signature along with his disputed signatures were forged in the documents. Therefore, he wanted to send the signature on the disputed agreement dated 15.03.2013 along with the specimen signature obtained in open court in order to get expert opinion. In that application, the respondents/plaintiffs 1 to 3 raised objections stating that signature obtained from the defendant in the open court cannot be relied. Therefore,



C.R.P.No.3472 of 2022

even the admitted signature in the partition deed dated 22.03.2013 and the signatures of respondents 1 and 2 are not found to be in uniform. So, if the signature is obtained in open court, they would change the signature. Therefore, the respondents/plaintiffs 1 to 3 raised objections. On considering both side submissions, the trial judge held that the petitioner is bound to prove his claim with the document for the contemporaneous period of 2013 to compare the signature found in the disputed document, on the other hand, they are seeking to get permission in the presence of Senior/Chief Ministerial Officer of the court to compare the signature found in the alleged disputed document as such is not permissible. Aggrieved over the same, the Revision Petitioner preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioner would submit that the respondents/plaintiffs 1 to 3 have created a forged document and marked as Ex.A1, but even though the court can compare the partition deed dated 22.02.2013, which is marked as Ex.A6, the trial judge erroneously dismissed the application. Hence, he prayed to set aside the findings of trial judge.



C.R.P.No.3472 of 2022

4. By way of reply, the learned counsel for respondents/plaintiffs 1 to 3 would submit that instead of submitting contemporaneous document to compare the signature found in the disputed document dated 15.03.2013, the revision petitioner/1st defendant simply seeking permission of the court to get the signature in the open court as such is not permissible, since because signature obtained in the open court would not amount to contemporaneous period for the reason that the disputed document is of the year 2013. After 10 years, if the signature is obtained in open court, it would be differed. Therefore, the trial judge rightly dismissed the application. Hence, they prayed to dismiss this Civil Revision Petition.

5. Records perused. Considering both side submissions, it reveals that the Revision Petitioner/1st defendant wanted to compare the signature found in original agreement marked as Ex.A7, but he wanted to compare the same along with signature obtained in the open court, in fact, already another partition deed dated 22.02.2013 which is marked as Ex.A6 and the same is a contemporaneous period document and the said document is not disputed by the Revision Petitioner. Therefore, the signatures found in



C.R.P.No.3472 of 2022

partition deed dated 22.3.2013 along with disputed document of original agreement dated 15.02.2013 can be compared. Therefore, the findings of the trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of trial judge in an unnumbered IA in CFR No.5915 of 2022 in O.S.No.07 of 2015 is set aside. The trial judge is directed to appoint an advocate commissioner and send the two documents for comparison and dispose the case as early as possible as per manner known to law. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

08.01.2024

Index : Yes/No
Speaking Order : Yes/No
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To

The Principal Sub-Court, Krishnagiri.



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C.R.P.No.3472 of 2022

T.V.THAMILSELVI, J.

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C.R.P.No.3472 of 2022

08.01.2024

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