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CRP No.5023 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 05.01.2024**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**CRP No.5023 of 2023 and**  
**CMP No.29264 of 2023**

Valarmathi

... Petitioner

Vs.

Gnanam

...Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 19.10.2023 in I.A.No.1 of 2022 in O.S.No.99 of 2008 passed by the Principal District Munsif, Thittakudi Taluk, Cuddalore District and direct to appoint an advocate commissioner to collect the documents No.1130/1989 dated 27.09.1989 and document No.873/1999, dated 23.08.1999 to obtain an expert opinion on the finger prints available in both the documents.

For Petitioner

: Mr.A.Mathiyazhagan

for Mr.R.Sampath Kumar



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## **ORDER**

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 19.10.2023 in I.A.No.1 of 2022 in O.S.No.99 of 2008 passed by the Principal District Munsif, Thittakudi Taluk, Cuddalore District and direct the Trial Court to appoint an advocate commissioner to collect the documents No.1130/1989 dated 27.09.1989 and document No.873/1999, dated 23.08.1999 to get the expert's opinion on the finger prints available in both the documents.

2. The petitioner herein is the defendant and the respondent herein is the plaintiff in O.S.No.99/2008. The respondent has filed the above suit seeking declaration of title over the suit property and also for permanent injunction restraining the petitioner/defendant from interfering with his peaceful possession and enjoyment of the suit property. In the suit, the petitioner/defendant has also filed written statement and subsequently, she had filed the above application, seeking appointment of Advocate



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commissioner to get the documents namely, the sale deed dated 27.09.1989 and the rectification deed dated 23.08.1999 from the respondent/plaintiff and send the same to the Forensic Department for getting expert opinion. After hearing both sides, the Trial Court has dismissed the above application. Challenging the above order, the present civil revision petition has been filed.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. A perusal of the records reveals that the respondent/plaintiff has pleaded in the plaint that she had purchased the suit property from one Devaki @ Amudha, vide sale deed dated 27.09.1989 and in the sale deed, survey number had been wrongly mentioned as 247 instead of 233/1D6. Therefore, a rectification deed was executed on 23.08.1999 by the said Devai @ Amudha. These facts are denied by the petitioner/defendant. Therefore, to prove the genuineness of the sale deed as well as the



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rectification deed, executed by Devaki @ Amudha, the petitioner/defendant had filed the above application before the Trial Court for appointment of Advocate Commissioner to get the above documents from the respondent/plaintiff and send the same to the Forensic Department for getting expert opinion.

5. It is to be noted that, when the petitioner/defendant is denied the above said execution of the sale deed as well as the rectification deed, as stated supra, it is for the respondent/plaintiff to prove her title over the plaint schedule property. Further, the respondent/plaintiff has filed the above suit for declaration of title over the suit property and consequently permanent injunction. In such circumstances, the burden of proof regarding title of the property is vested with the plaintiff, not on the defendant/ petitioner herein. The sale deed and the rectification deed were executed by one Devaki @ Amudha. The signatures of Devaki @ Amudha found in the above deeds, cannot be challenged by the petitioner/defendant. Therefore, there is no need for sending the above documents for expert opinion, by appointing



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Advocate Commissioner. As such, I am of the view that the order passed by the Trial Court does not warrant any interference by this Court and the civil revision petition filed by the petitioner is liable to be dismissed.

6. In fine, this Civil Revision Petition is dismissed and the impugned order passed by the Trial Court is upheld. Consequently, connected miscellaneous petition is closed. No costs.

**05.01.2024**

Index: Yes/No  
Internet: Yes/No  
mst

**To**

1. The Principal District Munsif,  
Thittakudi Taluk, Cuddalore District.



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**V.SIVAGNANAM, J.,**

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