



C.R.P. (MD).Nos.2007 and 2008 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)Nos.2007 and 2008 of 2019

and

C.M.P(MD) Nos.10337 and 10338 of 2019

C.R.P(MD) No.2007 of 2019:

A.Vinod Paul
S/o. Antony
Municipal Colony,
N.A.Kalyana Nagar,
Co-operative Colony,
Medical College Hospital Road,
Thanjavur,

herein represented by its
Power of Attorney,
A.Antony, S/o.Arockiam,
Municipal Colony,
N.A.Kalyana Nagar,
Co-operative Colony,
Medical College Hospital Road,
Thanjavur,

... Revision Petitioner/Petitioner/
Appellant

-VS-

R.Rajendran

... Respondent/Respondent/
Defendant



C.R.P. (MD).Nos.2007 and 2008 of 2019

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, as against the fair and decreetal order dated 08.07.2019, in I.A.No. 159 of 2015 in A.S.No.5 of 2015 on the file of the Sub Court, Kovilpatti.

For Petitioner : Mr.K.Sekar

For Respondent : Mr.V.Thirumal

C.R.P(MD) No.2008 of 2019:

A.Vinod Paul
S/o. Antony
Municipal Colony,
N.A.Kalyana Nagar,
Co-operative Colony,
Medical College Hospital Road,
Thanjavur,

herein represented by its
Power of Attorney,
A.Antony, S/o.Arockiam,
Municipal Colony,
N.A.Kalyana Nagar,
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C.R.P. (MD).Nos.2007 and 2008 of 2019

For Petitioner : Mr.K.Sekar

For Respondent : Mr.M.Prabhu

COMMON ORDER

The present Civil Revision Petitions have been filed by the appellant in A.S.No.5 of 2015, on the file of the Sub Court, Kovilpatti, challenging the order passed in I.A.Nos.159 of 2015 and 160 of 2015.

2. The petitioner herein as plaintiff had filed suit in O.S.No.2 of 2012 on the file of the District Munsif Court, Kovilpatti, for the relief of declaration of title and permanent injunction. Both the parties admit that one Mr.T.Ashirvatham, is the owner of the property.

3. According to the plaintiff, the said T.Ahsirvatham, had executed a registered power deed in favour of one A.Antony, on 06.05.2011. In turn the said Antony had executed a registered sale deed in favour of the plaintiff on 11.05.2011. The defendant relying upon certain inadmissible documents is claiming title over the property. On the said averments, the plaintiff had filed the suit. The defendant had contended that the same Ashirvatham had



C.R.P. (MD).Nos.2007 and 2008 of 2019

executed a registered power deed in favour of R.Maria Savari, on 19.09.2007 and the said R.Maria Savari had executed a registered sale deed in his favour on 26.09.2007. Therefore, Ashirvatham having lost the title on 26.09.2007 cannot execute the power deed in favour of Antony on 06.05.2011.

4. The vendor of the plaintiff and the defendant namely, T.Ashirvatham was examined on the side of P.W.2. During his deposition, the said Ashirvatham has not supported the case of the plaintiff, but had supported the case of the defendant. Based upon the oral and documentary evidence and the deposition of the said Ashirvatham, the suit filed by the plaintiff was dismissed. Challenging the same, the plaintiff had filed A.S.No.5 of 2015 on the file of the Sub Court, Kovilpatti. While the appeal was pending, the plaintiff/appellant had filed I.A.No.159 of 2015 under Order 41 Rule 27 of C.P.C, to receive a document of the year 1987, which is said to have been executed by the said Ashirvatham in favour of a Co-operative Society. The appellant had further filed I.A.No.160 of 2015 to send the said 1987 document for forensic expert to be compared with the power deed said to have been executed by Ashirvatham on 19.09.2007 in favour of Maria Savari. Both the applications came to be dismissed by the first appellate Court on the



C.R.P. (MD).Nos.2007 and 2008 of 2019

ground that the document which is sought to be compared with power deed dated 19.09.2007 is not contemporaneous in nature. Further the first appellate Court found that the document of the year 1987 cannot be marked for the reason that it is not relevant for the disposal of the appeal. Challenging these two orders, the present Revision Petitions have been filed.

5. According to the learned counsel appearing for the revision petitioner, his vendor namely, Ashirvatham, has deposed against him disputing the signature in the power deed dated 06.05.2011 and the plaintiff wants to prove that the signature of Ashirvatham in the power deed dated 19.09.2007 is a forged one. Hence, he had filed an application to receive the mortgage deed, dated 20.01.1987 that the signature of Ashirvatham, in the said document to be compared with his signature in the power deed dated 19.09.2007 said to have been executed in favour of the vendor of the defendant.

6. Per contra, the learned counsel appearing for the respondent had contended that, though the said Mr.Ashirvatham, who was examined on the side of the plaintiff as P.W.2, had deposed against him, the plaintiff has not



C.R.P. (MD).Nos.2007 and 2008 of 2019

taken any steps against it before the trial Court. That apart, when the signature of Ashirvatham in Document dated 06.05.2011 is disputed, the plaintiff is duty bound to prove the signature of Ashirvatham in the document dated 06.05.2011. Hence, he prayed for sustaining the orders passed by the appellate Court.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. The unsuccessful plaintiff in a suit for declaration of title and permanent injunction has filed the two applications before the first appellate Court seeking to receive a document as additional evidence and to compare the signature of one Ashirvatham found in the additional evidence to be compared with his signature in the power deed dated 19.09.2007.

9. From the facts elicited above, it is clear that the said Asirvatham, who was examined as P.W.2, in the said suit had admitted the signature in his power deed dated 19.09.2007. Therefore, the signature of Ashirvatham in the said document need not be proved by the defendant at all. On the other hand,



C.R.P. (MD).Nos.2007 and 2008 of 2019

the said Ashirvatham has disputed his signature only in the power deed dated 06.05.2011. Therefore, the application filed by the plaintiff/appellant before the first appellate Court to compare the signature in the document dated 20.01.1987 with the document dated 19.09.2007 is irrelevant for the purpose of the disposal of the appeal.

10. In view of the above said facts, the first appellate Court was right in dismissing both the applications and there are no merits in these Civil Revision Petitions. Accordingly, these Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

13.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Sub Court,
Kovilpatti.



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C.R.P. (MD).Nos.2007 and 2008 of 2019

R.VIJAYAKUMAR,J.

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C.R.P.(MD)Nos.2007 and 2008 of 2019



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C.R.P. (MD).Nos.2007 and 2008 of 2019

13.06.2024