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CRP(PD).No.603 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.603 of 2025

and

CMP.No.3424 of 2025

V.Gunasekaran

... Petitioner

Vs.

1.P.Umadevi

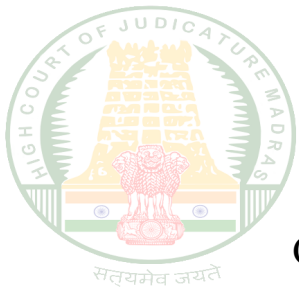
2.R.Subramaniam

3.S.Chitrakani

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal order of the III Additional District Munsif Court at Coimbatore dated 03.04.2024 in I.A.No.2 of 2023 in OS.No.556 of 2008.

For Petitioner : M/s.P.Valliappan, Senior Counsel
for M/s.P.V. Law Associates



ORDER

Challenging the order passed by the learned III Additional

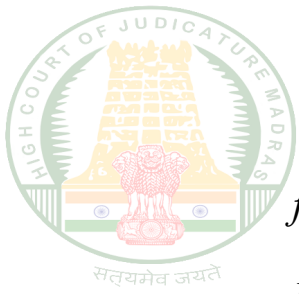
District Munsif, Coimbatore in I.A.No.2/2023 in O.S.No.556/2008,
the 3rd defendant is the revision petitioner before this Court.

2. I.A.No.2 of 2023 has been filed for appointing an Advocate Commissioner to verify the thumb impression book maintained by the Sub Registrar of Gandhipuram, Coimbatore with reference to the document number 124/2003 dated 22.01.2003 compare the same with her present thumb impression and compare both with the help of a finger print expert or expert in forensic department, Chennai.

3. The facts which led to the filing of this Civil Revision Petition are concisely stated hereinbelow and the parties are referred to in the same ranking as before the Trial Court.

4. The plaintiff had filed the afore-mentioned suit for the following reliefs:-

*"a) Declaring that the Sale Deed dated
22.01.2003 executed by the name of P.Uma Devi in*



WEB COPY

CRP(PD).No.603 of 2025

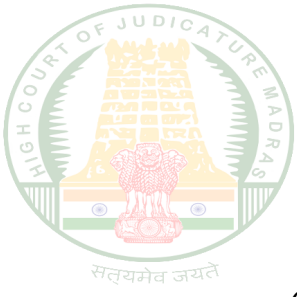


favour of the 1st Defendant in Document No.124/2003, Settlement Deed dated 27.06.2007 executed by the 1st defendant in favour of the 2nd defendant Document No. 4285/2007 and the Sale Deed dated 27.07.2007 executed by the 2nd defendant in favour of the 3rd Defendant Document No. 4804/2007 are null and void and not binding on the plaintiff.

b) For the Permanent. Injunction restraining the defendants, their men and agents from any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

c) For the Permanent Injunction restraining the 3rd defendant, his men and agents from any manner alienating or encumbrance the suit property.

d) Directing the defendants who is in custody of the original sale deed dated 28.03.1988 (Document No. 1672/1988) in favour of the Plaintiff to be handed over to the Plaintiff by way of mandatory injunction.



WEB COPY

CRP(PD).No.603 of 2025



(d) (i) Directing the defendants and the persons claiming through them to deliver vacant possession of the suit property after removing the unauthorized construction thereon.

(d)(ii) granting the relief of mandatory injunction, directing the 3rd defendant or such of those persons held liable to remove the unauthorized construction of the suit property, that in case of default, as per the clause supra, the plaintiff be at liberty to remove the said unauthorized construction at about an extent of 400 sq.ft on the north western side of the suit property through this Hon'ble Court."

5. The case of the plaintiff is that the suit schedule property belongs to her by virtue of a sale deed dated 28.03.1988 from which date she has been in possession and enjoyment of the property. The 1st defendant is the elder brother of the plaintiff and the 2nd defendant is the wife of the 1st defendant. The plaintiff would submit that her husband was working as a labourer in the C.S & W Mills, Coimbatore and had died in a motor vehicle accident. Thereafter, the plaintiff was



appointed on a compassionate ground in C.S & W Mills, Coimbatore.

At that point in time, the plaintiff and her minor daughter were residing at Sidhapudur, Coimbatore along with her mother and the 1st defendant. The plaintiff's apprehension is that during this time, the 1st defendant had removed the original document in respect of the suit property along with other documents and created a fabricated sale deed in his favour. Thereafter, on the strength of this fabricated sale deed, he had executed a settlement deed in favour of his wife (the 2nd defendant) who in turn had executed a settlement deed in favour of the 3rd defendant. The plaintiff would submit that she has not executed any sale deed in favour of the 1st defendant and the signature and the thumb impression therein do not belong to her and it appears to be a fabricated one. Therefore, she has come forward with the suit in question.

6. The 1st defendant had filed a written statement which was adopted by the 2nd defendant, in which they had denied the allegations made by the plaintiff in her plaint and had submitted that the sale deed dated 22.01.2003 registered as document number 124/2003 had been executed by the plaintiff in favour of the 1st defendant. The 1st



defendant in fact had given an advertisement in Dhinakaran Daily on 11.06.2007 that the Doc.Nos.1672/1988 dated 28.03.1988 and 124/2003 dated 22.01.2003 were missing and called upon persons to submit the same to his counsel if it was found. The 3rd defendant had also given an advertisement in Dhinakaran Daily on 18.07.2007 that if anyone had objection with regard to the suit property they could submit their objections to his counsel as he is going to purchase the same. However, no one had objected to the same. Therefore, they would submit that the sale deed was executed by the plaintiff and sought for the dismissal of the suit.

7. The 3rd defendant had filed a written statement reiterating the contents of the written statement filed by the 1st defendant. An additional written statement also came to be filed by the 3rd defendant in which it is contended that the relief for demolition of the building (amended relief) was barred by limitation.

8. Since the plaintiff had contended that the signature and the thumb impression in the sale deed dated 22.01.2003 are forged and manipulated, as she was in the habit of signing only in English



WEB COPY

CRP(PD).No.603 of 2023



language, whereas in the sale deed her signature was in vernacular and that no consideration had passed, she had filed I.A.No.2/2023 for the reliefs stated supra. Originally she had filed I.A.No.152/2012 for the same relief and on 20.02.2013, the learned III Additional District Munsif, Coimbatore had appointed an Advocate Commissioner for the same. Unfortunately, while passing the order, the Court had mentioned the document no.129/2004 instead of 124/2003. This mistake was pointed out by the Advocate Commissioner by filing a memo and on the basis of the memo dated, 21.09.2013, the Court had sou motu rectified the document number as 124/2003 in the order. Based on this order, the learned Commissioner had visited the Sub Registrar Officer at Gandhipuram, took the plaintiff's fingerprint and compared with the alleged document. Unfortunately, the Commissioner had taken the thumb impression with reference to a document bearing Doc. No.124 of 2002 instead of Doc. No.124 of 2003. The plaintiff had discovered the mistake only when going through the report. Therefore, since this report had not served the purpose for which it was ordered, the plaintiff had come forward with the present interlocutory application in I.A.No.2/2023.



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9. The 3rd defendant had filed a counter statement stating that the petition is highly belated. The case is at the stage of cross examination of the 3rd defendant by the plaintiff and at this stage the petitioner has come forward with the application in question. The 3rd respondent would further submit that no justifiable reasons have been put forward for the delay.

10. The learned III Additional District Munsif, Coimbatore after considering the arguments and perusing the records had observed that under the earlier application in I.A. No.152/2012, the Court had directed the Expert to submit a report. However, the report has been given with reference to a wrong document number. Therefore, the report of an Expert is necessary as the dispute in the present suit requires scientific investigation. Ultimately, the learned III Additional District Munsif, Coimbatore had allowed the application. Challenging the same, the petitioner/3rd defendant is before this Court.

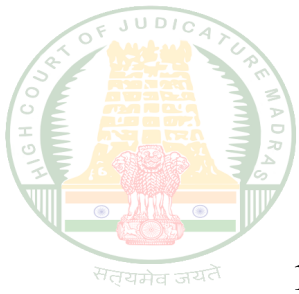
11. Heard the counsel for the petitioner and perused the records.

12. Admittedly, the plaintiff's case is that the sale deed dated



22.01.2003 registered as Document Number 124/2003 has not been executed by her and the signature and the thumb impression therein do not belong to her. Therefore, since there is a dispute regarding the signature and the thumb impression, the same has to be verified by an expert.

13. The Court below has deemed it fit to allow the application originally filed by the plaintiff in IA.No.152 of 2012. On the first occasion due to the mistake of the Court by wrongly mentioning the document number, the Advocate Commissioner could not proceed with the work and the same had been rectified by a memo dated 21.09.2013. Thereafter, the Advocate Commissioner had visited the Sub Registrar Officer at Gandhipuram, taken the plaintiff's fingerprint and compared the same with the alleged document. Unfortunately, the Commissioner had taken the thumb impression with reference to a document bearing Doc. No.124 of 2002 instead of Doc. No.124 of 2003. This anomaly has to be rectified. Therefore, the order passed by the III Additional District Munsif, Coimbatore in I.A.No.2 of 2023 dated 08.04.2024 is very much in order and I see no reason to interfere with the same.



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14. Accordingly, the Civil Revision Petition stands dismissed.

However, considering the efflux of time, a direction is issued to the learned III Additional District Munsif Coimbatore to ensure that the report of the Advocate Commissioner is submitted within a period of 3 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

18.02.2025

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Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The III Additional District Munsif Court at Coimbatore

P.T. ASHA. J.,

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WEB COPY



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