



C.R.P.(PD) Nos.2395, 2396 & 2398 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) Nos.2395, 2396 & 2398 of 2024
and CMP.No.12554 of 2024 in CRP.No.2398 of 2024

K.P.Mani

... Petitioner in all CRPs

Vs.

1.P.Munusamy
2.N.Shanmugham
3.V.S.RAvi
4.M.Jayachandran

... Respondents in all CRPs

Prayer in CRP.No.2395 of 2024 : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed by the learned Additional District Munsif, Tiruvallur, made in I.A.No.10 of 2024 in O.S.No.10 of 2011 dated 19.03.2024 and thereby allow this civil revision petition.

Prayer in CRP.No.2396 of 2024 : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed by the learned Additional District Munsif, Tiruvallur, made in I.A.No.9 of 2024 in O.S.No.10 of 2011 dated 19.03.2024 and thereby allow this civil revision petition.



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Prayer in CRP.No.2398 of 2024 : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed by the learned Additional District Munsif, Tiruvallur, made in I.A.No.8 of 2024 in O.S.No.10 of 2011 dated 19.03.2024 and thereby allow this civil revision petition.

For Petitioner : Mr.A.R.Suresh
(in all CRPs)

For Respondents : Mr.K.Balaji for R4
(in all CRPs)

COMMON ORDER

Challenging the orders passed in I.A.No.10/2024, I.A.No.9 of 2024 and I.A.No.8 of 2024 in O.S.No.10/2011 on the file of the Additional District Munsif, Tiruvallur, the revision petitioner who is the plaintiff in the suit, has filed these civil revision petitions.

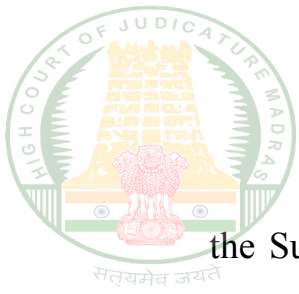
2. The details of the respective interlocutory applications are as follows :
 - a. I.A.No.8 of 2024 is filed to reopen the plaintiff side evidence.
 - b. I.A.No.9 of 2024 is filed to recall P.W.1 for marking of further documents.
 - c. I.A.No.10 of 2024 is filed to receive the additional documents.



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3. The revision petitioner herein as plaintiff has filed two suits before the District Munsif Court, Tiruvallur viz., O.S.No.10/2011 and O.S.No.154 of 2013. The suit in O.S.No.10/2011 was filed for a declaration of his title over the scheduled mentioned property and for a consequential injunction against the third defendant and also to declare that the sale deed dated 17.03.2010 executed in favour of the third defendant by the first defendant, as null and void. The other suit in O.S.No.154 of 2013 was filed for a declaration to declare that the sale deed dated 13.08.2012 registered as Document No.3204/2012 on the file of SRO, Perambakkam, as null and void and also for a permanent injunction. It is relevant to state that the defendants in both the suits are four in number, of which one V.S.Ravi and M.Jayachandrandran are arrayed as party defendants in both the suits (3rd and 4th defendants in OS.No10/2011 and 1st and 2nd defendants in O.S.No.154 of 2013 respectively). The first defendant in OS.No.10/2011 is one Munusamy, who is the brother of the plaintiff, and the second defendant in the said suit is one N.Shanmugam, who is the power agent of said Munusamy. The third and fourth defendants in O.S.No.154 of 2013 are the official respondents namely



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the Sub Registrar and Tahsildar respectively. Parties would be referred to as per their ranking in O.S.No.10/2011.

4. The case of the plaintiff is that he had agreed to purchase the suit schedule property from his brother Munusamy under a sale agreement dated 27.01.1999 for a sale consideration of Rs.2,90,000/-. He had paid an advance amount of Rs.2,00,000/- on 27.01.1999. According to the plaintiff, since the parties to the agreement were brothers, there was no specific time fixed to complete the sale and time was not the essence of the sale agreement. Thereafter, on 19.11.2002, the plaintiff had paid the balance sale consideration and executed an unregistered sale letter. Since the suit property was under mortgage, the sale deed could not be effected. However, the said mortgage was discharged on 23.12.2006 and the plaintiff had been insisting upon the first defendant registering the sale deed since then. Sometime in the first week of December 2010, V.S. Ravi, who is the third defendant in O.S.No.10/2011 and the first defendant in O.S.No.154/2013 alleged that the defendants therein had tried to trespass into the suit property and that he had purchased the suit property from the said Munusamy. When the plaintiff enquired about this with the Registrar Office, it came to his knowledge that the first defendant through



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his power agent, the second defendant, had executed a sale deed on 17.03.2010 in favour of Ravi, the third defendant. Hence the suit in O.S.No.10/2011 was filed for the aforementioned relief.

5. The plaintiff had laid the second suit in O.S.No.154/2013 reiterating the same facts as in O.S.No.10/2011. In addition, it is also contended in the plaint, that he had obtained an order of injunction in I.A.No.7/2011 in O.S.No.10/2011 and the same is still in force. Despite the fact that the plaintiff had obtained an order of injunction with regard to the suit property, V.S.Ravi, the third defendant alienated the property to Jayachandran, the fourth defendant on 13.08.2012 and the same is registered as Doc.No.3204/2012 before the Sub Registrar, Perambakkam and the patta for the said property was also issued by the Tahsildar, Tiruvallur Taluk, who are arrayed as third and fourth respondents respectively in O.S.No.154/2013. Hence, the suit in O.S.No.154/2013 is filed to declare that the sale deed registered as Doc.No.3204/2012 before the Sub Registrar, Perambakkam, as null and void.

6. The written statement was filed by said Jayachandran, the fourth defendant in O.S.No.10/2011 and the second defendant in O.S.No.154/2013,



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denying the allegations contained in the plaint. It is his contention that he is a bonafide purchaser under his vendor, the third defendant. Pursuant to the said purchase, the patta which originally stood in the name of the first defendant was transferred to his name in Patta No.705. To prove his possession over the suit property, the fourth defendant had filed patta, kist receipts etc.,

7. The contention of the revision petitioner/plaintiff is that the revenue authorities had issued the patta, kist receipts etc., without ascertaining the actual possession of the property, which according to plaintiff, is an invalid sale transaction entered into by the fourth defendant colluding with the third defendant. On 06.02.2015, the revision petitioner had issued a legal notice to the Tahsildhar, Thiruvallur Taluk, to cancel the patta granted to the fourth defendant. However, this legal notice got misplaced and it was found only when the plaintiff was preparing for his arguments in O.S.No.10/2011. Hence, this document is now sought to be introduced as additional plaint document.

8. That apart, the first defendant Munusamy had denied the signatures found in the agreement of sale dated 27.01.1999 and the sale letter dated 19.11.2002. The revision petitioner/plaintiff would submit that first defendant



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was in the habit of signing differently and also affixing his thumb impression at times. When the first defendant was questioned about the same, he denied it.

Therefore, in order to disprove the statement of the first defendant, there is a necessity to receive and mark the sale documents. Accordingly, the plaintiff would submit that the xerox copies of the said sale deeds have to be submitted along with the certified copies. Therefore, for this reason, the plaintiff side sought to have the evidence reopened and the plaintiff's side evidence is again recalled. Hence, the plaintiff has approached the Court with the aforementioned interlocutory applications. The plaintiff/revision petitioner would plead that if the applications filed by him are not allowed, it would cause grave hardship to him.

9. The fourth defendant had filed the counter in the said interlocutory applications and the same was adopted by the other defendants. The defendants would contend that the first suit viz., O.S.No.10 of 2011 was filed in the year 2011, and the other suit in O.S.No.154 of 2013 was filed later. The petitioner as P.W.1 had filed his proof affidavit on 09.09.2021 and for a period of over 2 ^{1/2} years, the trial was conducted and ultimately, the case was posted for arguments of both sides. The defendants would submit that inspite of



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plaintiff initiating steps to conclude the suit, he had filed the impugned applications to reopen his evidence and to recall P.W.1 evidence for marking of further documents, would clearly establish the conduct of the revision petitioner/plaintiff. The defendants would further submit that there is no explanation given, whatsoever, in the affidavit filed in support of these applications, as to the reasons for the delay in filing these documents, particularly, when these documents are already available in the hands of the plaintiff/revision petitioner even at the time of filing the suits. Therefore, the defendants / respondents would submit that this is nothing but an attempt to protract the proceedings. He would therefore pray for the dismissal of the applications.

10. Both the two suits were tried jointly. The learned District Munsif, Tiruvallur, after hearing both parties, dismissed the impugned applications. The learned Judge has observed that the thumb impression of the first defendant in the sale agreement has to be compared with the admitted signature, by sending the alleged sale agreement to the forensic department and only upon receipt of the report, the trial can go on. The defendants' side evidence was closed as early as on 28.07.2023 and the suit was posted for the



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arguments. Thereafter, the finger print expert was examined and he had deposited regarding the disputed thumb impression in the sale agreement. The learned Judge has observed that the matter was posted on 7 occasions for arguments, and at this stage, the present applications were filed for reopen, recall and to receive the additional documents. The documents that are proposed to be filed now, are all the documents which were in the custody of the plaintiff even at the time of trial. There is absolutely no explanation given for not furnishing the documents at the time of filing or during trial. The suit is pending for the last 12 years and the plaintiff/revision petitioner has come forward with these applications at this late hour. Therefore, the learned Munsif had proceeded to dismiss the applications.

11. Challenging the dismissal of the said I.As, the plaintiff / revision petitioner is before this Court.

12. The learned counsel for the revision petitioner would submit that if the revisions are allowed, he would conclude the examination of the witnesses on the very same day on which the suit is listed before the learned District Munsif, Tiruvallur. He would submit that these documents are very necessary



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to prove the case of the plaintiff.

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13. Per contra, Mr.K.Balaji, the learned counsel appearing for the caveator would submit that the signature and thumb impression have already been compared and a report has been filed to that effect. Therefore, there is no necessity for sending the signatures once again to the handwriting expert.

14. Heard the learned counsel on either side.

15. The revision petitioner/plaintiff seeks to reopen, recall P.W.1 and to receive the additional documents. The reasons are : (i) the first defendant had denied the signatures in the agreement of sale dated 27.01.1999 and the sale letter dated 19.11.2022; (ii) the first defendant is in the habit of making varying/different signatures at times. The first defendant as D.W.1 had denied all these aspects and therefore, in order to receive the additional documents, the only reason given by the plaintiff/petitioner was that by oversight it was missed out. The signature / thumb impression of the first defendant had already been examined by the finger print expert and a report was given to that effect. Therefore, it is immaterial to see whether the first defendant is in the habit of



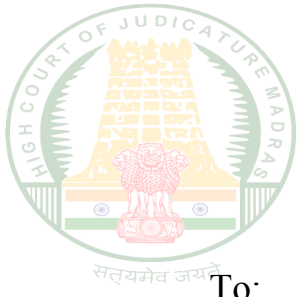
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putting different signatures. The defendants even in the written statement had denied the signatures in the agreement of sale and sale letter. Since the expert had already compared the signatures and given a report, there is no necessity to examine the signatures of the defendant once again. However no reasons have been given in the affidavits filed in support of the said interlocutory applications as to why the plaintiff has waited till the argument stage for filing the sale deed and other documents, at a highly belated stage. The learned District Munsif, Tiruvallur, has rightly rejected the applications in I.A.No.8 of 2024, I.A.No.9 of 2024 and I.A.No.10 of 2024 in O.S.No.10/2011 on the ground that it is only an attempt to protract the proceedings. I see no reason to interfere with the order of the learned District Munsif dated 19.03.2024 in I.A.No.8 of 2024, I.A.No.9 of 2024 and I.A.No.10 of 2024 in O.S.No.10/2011

16. The civil revision petitions are accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.03.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes / No
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To:

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- 1.The Additional District Munsif
Tiruvallur.
- 2.The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J.

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