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S.A.No.640 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.11.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No. 640 of 2014 and
C.M.P.No.6471 of 2018

Mrs.Mallika Dharmaraj,
W/o. S.Dharmaraj
57, Sadaiyappan Kovil Street,
Tirupur

...Appellant

Versus

Mrs. Anita Padia,
W/o. Ramkant Padia,
K.P.N.Colony,
4th Street,
Tirupur

...Respondent

PRAYER in S.A.: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 15.04.2013 in A.S.No.5 of 2012 on the file of Principal District Judge, Tirupur confirming the judgment and decree dated 07.07.2010 in O.S.No.6 of 2001 on the file of Principal Subordinate Court, Tirupur.

PRAYER in C.M.P.: Petition filed under Section 151 of Civil Procedure Code to stay the Respondent herein from alienating or making any encumbrance in the suit-mentioned properties which is the subject matter in A.S.No.5 of 2012 on the file of the Principal District Court, Tirupur.



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APPEARANCE OF PARTIES:

For Appellant : Mr.T.R.Rajaraman

For Respondent : Mr.B.Ravi Raja

J U D G M E N T

Heard.

2. This Second Appeal has been filed by the plaintiff in the suit against the judgment and decree dated 15.04.2013 passed in A.S. No. 5 of 2012 by the learned Principal District Judge, Tiruppur, confirming the judgment and decree dated 07.07.2010 made in O.S. No. 6 of 2001 by the learned Principal Subordinate Judge, Tiruppur, whereby the plaintiff's suit for specific performance was dismissed.

3. For the sake of convenience parties are referred to as they stood in the rank of trial court.

4. The plaintiff , was the original owner of 2 acres and 6 cents of land situated in Veerapandi Village, Tiruppur. On 12.10.1994, she



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executed a registered sale deed in favour of the defendant for a sale consideration of Rs. 1,65,000. The plaintiff contended that on 29.10.1994, the defendant executed a re-sale agreement agreeing to reconvey the same property to her for a consideration of Rs. 2,00,000 within six years. It was pleaded that she was always ready and willing to perform her part of the contract and had issued a notice dated 19.09.2000 demanding execution of the sale deed. The defendant denied execution of the agreement, alleging that the first two pages of the alleged re-sale deed were forged and fabricated, though her signature on the third page was genuine.

5. The trial court after framing the necessary issues and analysing both oral and documentary evidence, dismissed the plaintiff's suit.

6. The trial court found that the defendant admitted her signature only on the third page of Ex.A1 and denied those on the first two pages. Since the entire claim of the plaintiff rested on the authenticity of Ex.A1, the burden lay heavily on her to establish that the document had been duly executed by the defendant.



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7. The Court relied on the handwriting expert's report (Ex.X1), which concluded that the signatures on pages one and two were not those of the defendant, though the signature on the third page tallied with her admitted signature. On this basis, the Court held that Ex.A1 could not be treated as a genuine document executed by the defendant.

8. In response, the plaintiff attempted to explain that the defendant had first signed the third page while sitting and later signed the first and second pages while standing upstairs. The Court found this explanation to be an afterthought; it observed that the story was invented during trial and therefore could not be accepted.

9. The court also found it improbable that the defendant, having purchased the property on 12.10.1994, would agree within seventeen days to re-sell it after six years for a small increase in price. Such a transaction was held to be inconsistent with normal conduct and human probabilities.



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10. Considering these circumstances collectively, the Court held that Ex.A1 was a fabricated document and that the plaintiff had miserably failed to prove execution. Since the relief of specific performance is discretionary and equitable, the plaintiff's failure to prove genuineness of the agreement disentitled her to relief. The suit was accordingly dismissed with costs.

11. The first appellate court undertook a complete reappraisal of the evidence and confirmed the dismissal of the suit by the trial court. It found that even apart from Ex.X1, the record itself established fabrication of Ex.A1. The court held that the non-examination of S. Murali Krishna was immaterial because M. Kasi, the co-signing document analyst who participated in the comparison, was examined and explained the methodology; thus one of the authors of the report testified to the analysis. In any event, the plaintiff's own evidence and the inherent improbabilities in the record were sufficient to reject execution; the court treated expert opinion as merely corroborative and rested its conclusion on the totality of circumstances.



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12. Beyond the expert's report, the Court recorded multiple suspicious circumstances: the stamp papers were purchased from Chennimalai, even though both parties lived and transacted business in Tiruppur. No reason was offered for this irregularity; one stamp paper was purchased in the plaintiff's name, and the other in the name of her husband, though only the plaintiff was the contracting party; the typing on page two was abruptly cut off mid-line, and the continuation on page three appeared in a different font and alignment, suggesting that the pages were typed separately; PW2, an attesting witness, had signed in two different inks without any satisfactory explanation. The appellate court concluded that the document was fabricated and the plaintiff's suit was false. The appeal was therefore dismissed with costs.

13. The principal contention of the appellant is that the Courts below failed to properly appreciate the handwriting expert's report and erred in relying on the same while dismissing the suit. The handwriting expert's report is marked as Ex.X1. It is an admitted fact that the handwriting expert who authored the report died prior to his examination. To prove the report, the defendants examined D.W.3, who



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was the junior officer working under the deceased expert and who had actively assisted in the preparation of the said report.

14. The appellant argued that non-examination of the expert who actually prepared the report is fatal to the defence and that the evidence of D.W.3 cannot cure the defect. This Court is unable to accept the said contention. The death of the expert who prepared Ex. X1 is undisputed. The report was prepared by the deceased expert in the normal course of his official duties. Therefore, by virtue of Section 32(2) of the Indian Evidence Act, 1872, the report becomes admissible as a statement made by a deceased person in the discharge of professional duty. Once the statutory requirement is satisfied, the evidence of D.W.3, who had assisted the expert in the preparation of the report, is legally sufficient to speak about the procedure followed and the basis of the opinion.

15. The attack made upon the competence of D.W.3 is also without substance. Nowhere has D.W.3 stated that he is unqualified; on the contrary, he has deposed that he underwent special training in the field of forensic document examination. His evidence, coupled with the admissibility of the expert report under Section 32(2), renders the



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objection of the appellant untenable.

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16. More importantly, the Courts below did not rest their conclusions solely on the expert report. They independently considered the oral evidence, surrounding circumstances, factual inconsistencies, and conduct of the parties. The cumulative factual assessment corroborated the opinion found in Ex.X1, leading both Courts to concurrently hold that Ex.A1 is not a genuine document. Such concurrent findings of fact, rendered after proper evaluation of the evidence, cannot be interfered with in a second appeal unless shown to be perverse or illegal.

17. On a thorough scrutiny of the records, this Court finds no perversity, illegality, or misapplication of law in the reasoning adopted by the Courts below. The appellant has failed to demonstrate how the concurrent findings suffer from any error warranting interference under Section 100 CPC. As the findings are based on evidence and are neither arbitrary nor unreasonable, no substantial question of law arises for consideration in this Second Appeal.

18. In view of the above discussion, the Second Appeal stands



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dismissed at the stage of admission itself. There shall be no order as to costs. The connected miscellaneous petition, if any, is closed.

25.11.2025

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Index:Yes/No

Speaking Order /Non-speaking order

Neutral citation:Yes/No

To

1.The Principal Subordinate Court, Tirupur

2.The Principal District Court, Tirupur

3. The Section Officer, V.R.Records,
Madras High Court.



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DR. A.D. MARIA CLETE, J

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