



WEB COPY

CRP(PD).No.2360 & 2362 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).Nos.2360 & 2362 of 2022

1.V.E.Sellvi
2.S.R.Venkatachalam

... Petitioners in both CRPs

Vs.

1.Prabhakaran
2.Anandhi
3.R.Balasubramanian
4.The Sub Registrar, Joint-1,
Sub Registrar Office,
Postal Colony,
Sivan Theatre Road,
Tirupur
5.The District Collector,
District Collector Office,
Cotton Market Compound
Palladam Road, Tiruppur

6.T,R.Sivaram

... Respondents in both CRPs

Prayer in CRP.No. 2360 of 2022:- Civil Revision Petition is filed



under Article 227 of the Constitution of India to set aside the order of the learned II Additional District Judge, Tiruppur dated 05.04.2021 passed in IA.No.1423/2018 in OS.No.62/2015 and consequently allow the said application.

Prayer in CRP.No.2362 of 2022:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order of the learned II Additional District Judge, Tiruppur dated 05.04.2021 passed in IA.No.1422/2018 in OS.No.62/2015 and consequently allow the said application.

For Petitioner : M/s.Guru Dhananjay

For Respondent : M/s.Subhashini
for M/s.Chennai Law Associates
for R.1 to R.3 and R.6

: M/s.V.Ramesh, Govt. Advocate
for R.4 and R.5.

COMMON ORDER

The above Civil Revision Petitions are filed challenging the orders passed by the II Additional District Judge, Tiruppur in IA.Nos.1422 and 1423 of 2018 in OS.No.62 of 2015 dated 05.04.2021.

2. Since both the interlocutory applications arise from out of a



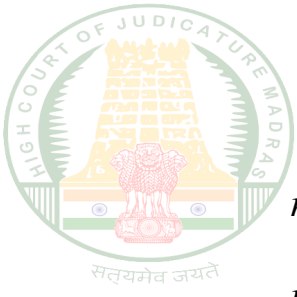
single suit, a common order is being pronounced in the above
Revision Petitions.

3 The petitioners/plaintiffs had filed the suit OS.No.62 of 2015 on the file of the II Additional District Judge, Tiruppur for the following reliefs:-

“a) by cancelling the Sale deed vide document No.2102/2015 dt.27.02.2015 standing in the name of the 3rd defendant.

b) by the way of permanent injunction restraining the defendants No.1 to 3 their men, agents, relatives, assigns etc, from any manner disturbing the peaceful possession and enjoyment of the plaintiff over the suit property (Schedule A- Item-1) and not to evict the plaintiff forcibly from the suit property until otherwise by the process of Law;

c) by the way of permanent injunction



WEB COPY

CRP(PD).No.2360 & 2362 of 2022

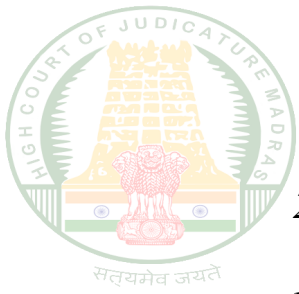


restraining the defendants No.1 to 3 their men, agents, relatives, assigns etc. from any manner alienating and encumbering the suit property (Schedule A-Item-1);

d) by the way of mandatory injunction directing the defendants No.1 & 2 to return back the security documents as issued by the plaintiff in favour of the defendants No. 1 & 2 and get new security document executed in their favour.

e) by the way of permanent injunction restraining the defendants No.1 & 2 from any manner misusing the security document as issued by the plaintiff in favour of the defendants as mentioned in the "B" Schedule hereunder;

e (i) by the way of Mandatory Injunction directing the 4th defendant to Remove or Delete the entry of Sale Deed Document no.5814/2015 dt.



WEB COPY

CRP(PD).No.2360 & 2362 of 2022



22.05.2015 from their records and books as maintained by them.”

4. It is the case of the petitioners/plaintiffs that they are the owners of the suit property and they had executed a power of attorney in favour of the 2nd defendant as security for a loan borrowed by the 1st defendant. Misusing the power of attorney, the defendants 1 and 2 had colluded together and executed a sale deed in favour of the 3rd defendant on 27.05.2015 and thereafter once again the suit property has been sold to the 6th defendant on 22.05.2015. Therefore, the petitioners/plaintiffs have come forward with the suit in question.

5. After PW.1 has been examined and documents were marked, since the petitioners/plaintiffs could not mark the petition mentioned documents during the examination of P.W.1 as these documents are xerox copies, the petitioners/plaintiffs have come forward with IA.No.1243 of 2018 to mark the same as secondary evidence. Likewise, since the case of the petitioners/plaintiffs is that the original of these documents are in the custody of respondents/defendants 1, 2



and 6 and instead of a notice under Section 66 A of the Evidence Act the respondents/defendants 1, 2 and 6 had failed to produce these documents, the petitioners/plaintiffs have come forward with I.A.No.1422 of 2018 seeking permission to issue notice to these respondents/defendants to produce the petition mentioned documents.

6. The 6th defendant/respondent had filed a counter denying the custody of the documents. He would submit that he is a *pendente lite* purchaser and there is no explanation on the side of the petitioners/plaintiffs as to how possession has gone into the hands of the 6th defendant. The 6th defendant had purchased the suit property from the 3rd defendant and had taken vacant possession from the 3rd defendant.

7. The 1st defendant had also filed a counter denying the allegations contained in the affidavit. He would reiterate that the documents are not in the custody of the respondents/defendants.

8. The learned II Additional District Judge, Tiruppur after hearing the parties and perusing the records by her order dated



05.04.2021 was pleased to dismiss both the applications. Challenging the same, the petitioners/plaintiffs are before this Court.

9. Heard the learned counsels on either side and perused the records.

10. The petitioners/plaintiffs have come forward with the suit O.S.No.62 of 2015 stating that the power of attorney which they have executed in favour of the 2nd defendant as a security for the loan borrowed from the 1st defendant has been misused to create a sale deed in favour of the 3rd defendant on 27.05.2015 and thereafter by the 3rd defendant in favour of the 6th defendant on 22.05.2015.

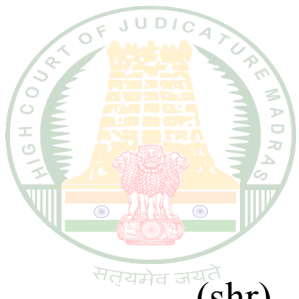
11. The petitioners/plaintiffs would submit that the original documents described as document number 19 in the plaint are in the custody of the defendants 1 and 2 which were received as security at the time of disbursing the loan. The plaintiffs' contention is that the original of document nos. 3, 5, 7, 11 and 13 were kept in the office in the suit property which is now in the custody of the 6th defendant.



WEB COPY

Therefore, it has become necessary to direct them to produce the documents or permit the marking of the xerox copies of the documents. As to how the production of these documents or the marking of these documents would advance the case of the petitioners/plaintiffs or as to how they are relevant to the case on hand has not been set out either in the affidavit or during the arguments. The petitioners/plaintiffs have not even pleaded as to how possession from them has changed hands. The only ground pleaded is that these documents were in the suit schedule property. That apart, two of the documents for which the petitioners/plaintiffs seek to issue a notice for production, and for which they request permission to mark xerox copies, can be obtained as certified copies from public authorities. The learned II Additional District Judge, Tiruppur has considered the interlocutory applications and passed a very detailed and well-considered order which does not require to be reversed.

12. Accordingly, the Civil Revision Petitions are dismissed. No costs.



CRP(PD).No.2360 & 2362 of 2022

18.02.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The II Additional District Judge, Tiruppur

P.T. ASHA. J.,

(shr)



WEB COPY

CRP(PD).No.2360 & 2362 of 2022



CRP.(PD).Nos.2360 & 2362 of 2022

18.02.2025