



C.R.P. (PD) Nos.3381, 3382
and 3384 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 18.08.2025
PRONOUNCED ON : 29.08.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P. (PD) Nos.3381, 3382 and 3384 of 2023
and
C.M.P. Nos.21032 and 21037 of 2023

C.R.P. No.3381 of 2023

G. Annadurai

...

Petitioner

vs

P.A. Thangaraj (died)

1. Sellammal
2. T. Senthil
3. T. Suresh
4. Pappayammal
5. Sathyasree
6. Kalaivani
7. V. Krishnan
8. P. Ramasamy
9. R. Subbulakshmi
10. R. Balakrishnan
11. P. Radha
12. S. Vijayalakshmi
13. T. Gokula Kannan

...

Respondents

C.R.P. Nos.3382 and 3384 of 2023

C. Annadurai

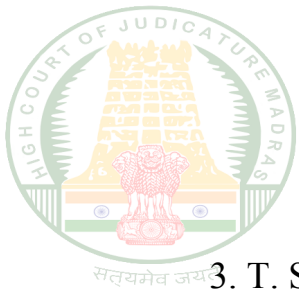
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Petitioner

vs

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3. T. Suresh

4. Pappayammal

5. Sathyasree

6. Kalaivani

7. V. Krishnan

8. T. Gohula Kannan

.... Respondents

Prayer in C.R.P. No.3381 of 2023 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 28.11.2022 made in I.A. No.525 of 2017 in O.S. No.284 of 2008 on the file of the Ld. Additional Sub Court, Tiruppur by allowing this Civil Revision Petition.

Prayer in C.R.P. No.3382 of 2023 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 08.02.2023 made in I.A. No.1379 of 2008 in O.S. No.284 of 2008 on the file of the Ld. Additional Sub Court, Tiruppur by allowing this Civil Revision Petition.

Prayer in C.R.P. No.3384 of 2023 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 19.01.2023 made in I.A. No.1380 of 2008 in O.S. No.284 of 2008 on the file of the Ld. Additional Sub Court, Tiruppur by allowing this Civil Revision Petition.

For Petitioner in all CRPs : Mr. N. Manoharan

For Respondents : Mr.Duraikhan S. Phillip for RR1 to 3
Mr.K.S. Karthik Rajan for RR8 to 11
No appearance for RR4 to 7, 12 & 13

COMMON ORDER



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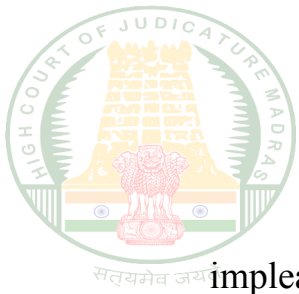
C.R.P. No.3381 of 2023 has been filed challenging the order of the trial Court permitting impleadment of a third party purchaser as the defendant in the suit.

2. C.R.P. Nos.3382 and 3384 of 2023 have been filed challenging the applications taken out for sending documents for comparison to the expert.

3. I have heard Mr.N. Manoharan, learned counsel for the petitioner in all the revision petitions and Mr.Duraikhan S. Philip, learned counsel appearing for the respondents 1 to 3 and Mr.K.S. Karthik Rajan, learned counsel for the respondents 8 to 11.

4. The learned counsel for the petitioner, Mr.N. Manoharan would contend that the suit is for specific performance of an agreement of sale between the plaintiffs and the 1st defendant. An application was taken out in I.A. No.525 of 2017 by third parties seeking to implead themselves as defendants 9 to 13.

5. The learned counsel for the petitioner, Mr.N. Manoharan would state that the plaintiffs being the dominus litis, the Court ought not have



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impleaded the said parties and thereby compelled the plaintiffs to proceed against these defendants as well, that too in a suit for specific performance of an agreement of sale between the plaintiffs and the 1st defendant. The learned counsel would therefore pray for the revision in CRP No.3381 of 2023 being allowed.

6. Per contra, the learned counsel appearing for the proposed parties, who have been directed to be impleaded in the suit, Mr.Karthik Raja, would state that being a suit for specific performance and property having already been purchased by the proposed defendants, they are proper and necessary parties and any adjudication in the suit for specific performance behind their back would certainly prejudice their interests. He would therefore pray for the order of the trial court being confirmed.

7. I have carefully considered the submissions made by the learned counsel for the parties.

8. Though the suit is only for specific performance of an agreement of sale, it is seen that the proposed parties have already purchased an extent of 5.42 ½ acres under a registered sale deed, dated 11.07.2011 and



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one of them viz., the 5th petitioner in the I.A. has purchased an extent of one acre under a separate Sale Deed, dated 22.06.2011. According to the petitioner, they are in physical possession and enjoyment of the suit property and on coming to know about the suit for specific performance in a connected suit, O.S. No.210 of 2012, they have sought to implead themselves in the present suit. The case of the petitioner is that the suit agreement is a fabricated one and as owners as on date, they are proper and necessary parties. The trial court finding that the relief in O.S. No.210 of 2012 has been filed for cancelling the Sale Deeds in favour of the proposed petitioners and though it is objected to by the respondents / plaintiffs that the purchasers were aware of the pendency of the specific performance suit, even at the time of the Sale Deeds being executed and registered in their favour, the trial Court thought it fit to allow the impleading application, so that there would be sufficient opportunity to the parties to raise all defences in the suit and no prejudice would be caused by impleading the purchasers.

9. I do not find any illegality or infirmity in the order of the trial Court warranting interference that too under Article 227 of the Constitution of India.



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10. In the light of the above, I am inclined to dismiss C.R.P. No.3381 of 2023 and the same is dismissed.

11. Insofar as CRP Nos.3382 and 3384 of 2023, the plaintiffs have filed I.A. Nos.1379 of 2008 and 1380 of 2008. I.A. No.1379 of 2008 was filed for appointment of a commissioner with a direction to the Commissioner to take suit document in I.A. No.114 of 2007 in O.S No.71 of 2007 on the file of the District Court, Erode and get an expert opinion in terms of Section 45 of the Indian Evidence Act, read with 151 CPC and in I.A. No.1380 of 2008, the plaintiffs sought for sending the documents from the custody of the District Court, Erode under Order 13 Rule 10 read with Section 151 CPC for comparison of signature.

12. The learned counsel for the petitioner, Mr.N. Manoharan would state that the contesting first respondent has taken a plea that the agreement of sale is a rank forgery and has denied the signature and therefore, it has become necessary for the plaintiffs to compare the signature of the 1st respondent / 1st defendant in the agreement of sale with the admitted signature that is available to be compared with. The admitted signature according to Mr.N. Manoharan is available in I.A.



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No.114 of 2007 in O.S. No.71 of 2007 on the file of the District Judge,

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Erode and he would therefore state that no serious prejudice would be caused and in the interest of justice, the trial Court ought to have allowed both the applications to enable the Court to come to a right conclusion regarding the plea of forgery set up by the contesting defendant.

13. Mr.N. Manoharan, would also rely upon the Full Bench decision of the High Court of Andhra Pradesh in ***Bande Siva Shankara Srinivasa Prasad vs. Ravi Surya Prakash Babu and others reported in 2015 SCC Online Hyd 467.***

14. Per contra, Mr.Duraikhan S. Phillip learned counsel for the respondents 1 to 3 would submit that the trial Court has rightly dismissed the applications and no interference is warranted in these revisions. He would also state that the case of the plaintiffs is that the Sale Deed itself came to be executed on 30.03.2005 and therefore, it not being a sale agreement, the document is inadmissible in evidence and therefore no rights can be claimed under such an inadmissible unregistered sale deed under which the revision petitioners' claim right. He would therefore state that the trial Court has rightly found that the documents being



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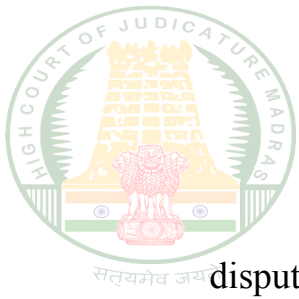
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inadmissible, there is no purpose in sending the disputed signature for the report of an expert.

15. The learned counsel would also state that the trial court has also rightly found that the signatures which are sought to be compared are not contemporaneous signatures and even from this angle the order of the trial Court does not warrant interference.

16. I have carefully considered the submissions advanced by the learned counsel for the parties.

17. The suit is for specific performance of an agreement of sale. However, as rightly pointed out by Mr.Duraikhan S Phillip, learned counsel for the respondents 1 to 3, the said document which is sought to be specifically enforced is a Sale Deed. The payment of the entire sale consideration has been acknowledged in the document and title has been conveyed to the revision petitioners under the said unregistered sale deed. It is therefore the contention of the respondents and also accepted by the trial Court that the document being inadmissible in evidence, there is no useful purpose in getting an opinion of an expert with regard to the



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disputed signature in the said document.

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18. The Full Bench of Andhra Pradesh in ***Bande Siva Shankara Srinivasa Prasad's*** case, referred to supra, dealing with contemporaneity of the signatures in dispute and admitted signatures held that merely because an application seeking expert opinion is filed belatedly, it would not automatically mean that the signatures sent for comparison are not contemporaneous. Though the Full Bench held that an expert opinion obtained under Section 45 of the Indian Evidence Act would not be binding on the Court and it is only advisory in nature, ultimately the decision would lie within the domain of the Court, as evidence of an expert is liable to be interpreted like any other evidence and the Full Bench further held that no time limit can be fixed for filing applications under Section 45 of the Indian Evidence Act for sending the disputed signatures or writings to the handwriting expert for comparison and left it to the discretion of the Court, which is dealing with the matter to take a call exercising such discretion when exigencies so demand, depending on the facts and circumstances of the case. It is fairly settled law that signatures which are three years apart are contemporaneous signatures and therefore comparison of such signatures are permitted in order to



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get a report from the handwriting expert. Insofar as the inadmissibility of the document, being a sale deed and the same being unregistered, the Hon'ble Supreme Court in ***S. Kaladevi vs. V.R. Somasundaram and others reported in (2010) 5 SCC 401*** interpreting Section 49 and its proviso and Section 17 of the Registration Act held that though an unregistered Sale Deed is not admissible in evidence, but it can always be rendered as a proof of an oral agreement of sale, but not as a evidence of completed sale. Here, the suit is only for specific performance and according to the plaintiffs, the said unregistered document styled as Sale Deed alone is sought to be enforced specifically. The ratio laid down by the Hon'ble Supreme Court is therefore squarely apply to the facts of the present case and merely because, the document was styled as a Sale Deed, it does not become inadmissible and as held by the Hon'ble Supreme Court, the trial Court can always receive the document and admit it as evidence of an oral agreement of sale in a suit for specific performance.

19. In the light of the above, I am inclined to set aside the order of the trial Court passed in I.A .Nos.1379 and 1380 of 2008 in O.S. No.284 of 2008 and accordingly, C.R.P. Nos.3382 and 3384 of 2023 are



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allowed.
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No costs. Consequently, connected miscellaneous petitions are
closed.

29.08.2025

Internet: Yes/No
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
vsi2

P.B. BALAJI, J.

vsi2

To
The Additional Sub Court,
Tiruppur.



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PRE-DELIVERY ORDER
IN
C.R.P. (PD) Nos.3381, 3382 and 3384 of 2023
and
C.M.P. Nos.21032 and 21037 of 2023

29.08.2025