



C.R.P.No.4401 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.4401 of 2023

C.M.P.No.26649 of 2023

A.Loganathan

...Petitioner

Vs

1.S.Venkatachalam

2.P.Samiyathal

3.K.Kandasamy

4.The Sub Registrar

Perundurai Sub Registrar Office,
Perundurai.

...Respondents

PRAYER:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the fair and final order dated 05.07.2023 made in I.A.No.5 of 2023 in O.S.No.172 of 2018 on the file of II Additional Sub Court, Erode by allowing this CRP.

For Petitioner : Mr.M.Venkadesh Kumar

For R1 & R2 : Mr.V.S.Kesavan

For R4 : Mr.V.Ramesh



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ORDER

Challenging the dismissal of his application filed under Order XXVI Rule 10 (1) of C.P.C. to send signature in document No.30/1998 in comparison with the signature in the power of attorney deed bearing Document No.40/2006 on the file of the SRO, Kumarapalayam.

2.The facts that have given rise to this Civil Revision Petition is briefly set out herein below. The parties are referred to in the same ranking as before the Trial Court.

The plaintiffs had filed the suit O.S.No.172 of 2018 on the file of the II Additional Subordinate Court, Erode, seeking the relief of setting aside the sale deed dated 20.01.2006 executed by the second defendant as power agent in favour of the first defendant in Document No.151/2006 on the file of the Sub Registrar, Perundurai, and for a permanent injunction restraining the first defendant from trespassing into the suit property or interfering in any other manner with the plaintiff's peaceful possession and enjoyment of the property.

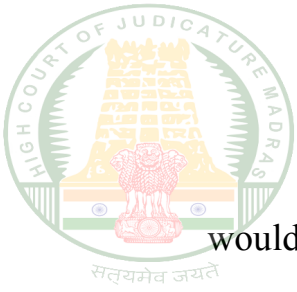


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3.The case of the plaintiffs is that on the basis of forged and fabricated power of attorney which has not been executed by the first plaintiff in favour of the second defendant, the second defendant had sold the property to the first defendant. Therefore, the plaintiffs sought to have the same cancelled. The plaintiff's contention is that they continued to be in possession and enjoyment of the suit property. The sale deed dated 20.01.2006 was a fabricated document, since the power of attorney deed dated 19.01.2006 said to have been executed by the plaintiffs in favour of the second defendant was never executed by the plaintiffs. That apart, possession continue to remain with the plaintiffs till date and no consideration has passed.

4.The defendants had filed written statement denying the allegations. In their written statement, the first defendant had made a mention about power of attorney dated 04.11.1998 executed by Venkatachalam in favour of Selvakumar of Thookkanaickenpalayam, registered as Document No.30/1998 on the file of the SRO, Thookkanaickenpalayam. In their written statement the first defendant



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would also state that the signature in the power of attorney deed document No.30//1998 was forged by Subramanian and was never executed by Venkatachalam. Thereafter, the first defendant had come forward to file I.A.No.5 of 2023 which is the subject matter of the present revision to have the signature of the first plaintiff S.Venkatachalam in Document No.30/1998 on the file of the SRO, Thookkanaickenpalayam, compared with the admitted signature of the first respondent in Document No.30/1998 with the disputed signature in the power of attorney deed bearing Document No.40/2006. This application has been dismissed. Challenging the same, the petitioner is before this Court.

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

6.As narrated above the defendant in their written statement have themselves stated that the signature in document No.30/1998 was forged by Subramanian and was not executed by Venkatachalam. This statement has been made in paragraph No.10 of the written statement. That being so, in the petition now filed for referring the document for expert



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evidence, the first respondent has stated that the signature in Document No.30/1998 on the file of S.R.O, Kumarapalayam, has been admitted by the first plaintiff. That apart, the document of the year 1998 is sought to be used for comparing a signature made in the year 2006 and the documents are not contemporaneous. Therefore, in these circumstances the order of the learned II Additional Subordinate Judge, Erode, in dismissing the application is perfectly in order and I see no reason to interfere with the same.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To

1. II Additional Sub Court, Erode

2. The Sub Registrar



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Perundurai Sub Registrar Office,
Perundurai.

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P.T.ASHA, J.

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