



CRP(MD). No.205 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.12.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.205 of 2023

and

CMP(MD) No.1012 of 2023

T.Murugesh

... Petitioner

Vs

L.Muthumari

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Subordinate Judge, Palani, Dindigul District, in I.A.No.1 of 2022 in O.S.No.409 of 2014 dated 01.09.2022.

For Petitioner : Mr.V.Nagendran

For Respondent : Mr.M.P.Senthil

ORDER

This Civil Revision Petition has been filed challenging the order made in I.A.No.1 of 2022 in O.S.No.409 of 2014 dated 01.09.2022 on the file of the Subordinate Court, Palani, Dindigul District.



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2.The petitioner is the defendant in O.S.No.409 of 2014. The respondent/plaintiff has filed the above suit for the relief of specific performance. Pending suit, the petitioner/defendant had filed an application in I.A.No.1 of 2022 under Section 26(10)(2) of CPC., to compare the signature of the respondent/plaintiff found in Ex.A2, namely, surrender deed, dated 09.10.2014, with the admitted signature found in Ex.A1 along with Vakalat. The said application was dismissed by the trial Court stating that genuineness of Ex.A2 is not relevant for deciding the dispute involved in the suit. Aggrieved over the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds of Revision and called upon this Court to set aside the order impugned herein.

4.*Per contra*, the learned counsel for the respondent would submit that when the written statement had been filed in the year 2016 itself and the suit was posted for cross-examination of P.W1, filing a petition after a period of six years to compare the signature of the respondent/plaintiff



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is not in accordance with law. Hence, he prays for dismissal of this petition.

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

6. Perusal of records would reveal that a sale agreement was entered into between the parties on 15.04.2014 and the period of agreement is for two years. As per agreement, sale deed has to be executed in respect of the suit schedule property by the petitioner/defendant in favour of the respondent/plaintiff, after receiving the balance sale consideration.

7. Reading of the plaint would reveal that on 09.10.2014, an amount of Rs.50,000/- has been received by the petitioner and the possession of the property has also been handed over to the respondent. However, the petitioner failed to execute the sale deed in favour of the respondent, for which, on 15.10.2014, the respondent sent a legal notice to the petitioner, which was also received by the petitioner on 17.10.2014. Even after receiving the legal notice, the petitioner did not



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come forward to execute the sale deed. Hence, the respondent filed the above suit for the relief stated supra.

8. In the written statement, denying the averments made in the plaint, it had been conceded by the petitioner/defendant that the respondent had sent a legal notice on 15.10.2014 and the same was received by the petitioner on 17.10.2014. Further, it had been averred in the written statement that even according to the respondent, the period of sale agreement will expire only on 14.04.2016. However, before the completion of this period, the suit had been filed, which is liable to be dismissed on the ground of premature.

9. Be that as it may, it is not in dispute that the respondent had sent a legal notice on 15.10.2014 and the same was received by the petitioner on 17.10.2014 and even before the completion of the statutory period, as provided, to give a reply to the legal notice, dated 15.10.2014, the respondent filed the suit for specific performance on 20.10.2014 before the Court below. The trial Court failed to consider the case on hand in this line.



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10. Further, in an earlier occasion, this Court in CRP(MD) No.1945 of 2021, vide order dated 14.06.2022, granting liberty to the petitioner herein, had passed the following order:-

“7. If the defendant/revision petitioner is having any grievance over the disputed document, namely, Ex.A2-surrender deed dated 09.10.2014, he is at liberty to establish/prove his signature found in the disputed document in the manner known to law, during the trial. He can also prove his possession of the property, at the time of trial, by adducing adequate evidence. Therefore, this Court is not inclined to interfere with the order of the trial Court.”

11. In fine, the Civil Revision Petition stands allowed. The impugned order made in I.A.No.1 of 2022 in O.S.No.409 of 2014 dated 01.09.2022 on the file of the Subordinate Court, Palani, Dindigul District is hereby set aside and the matter is remanded back to the trial Court for fresh consideration. The trial Court is directed to proceed the matter in accordance with law, keeping in mind of the order dated 14.06.2022 made in CRP(MD) No.1945 of 2021.



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WEB COPY No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

The Subordinate Court, Palani,
Dindigul District.



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N.SENTHILKUMAR, J.

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