



C.R.P(MD)No.2127 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 09.01.2025
DELIVERED ON : 29.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.2127 of 2022
and
C.M.P(MD)No.9801 of 2022

Ponraj

... Petitioner

Vs.

1.Mayandi

2.Murugan

3.Pauldurai Nadar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.1 of 2021 in O.S.No.22 of 2011, dated 04.10.2021 on the file of the Sub Court, Ambasamudram by allowing this civil revision petition.

For Petitioner : Mr.P.Alwin Balan

For Respondents : No appearance



C.R.P(MD)No.2127 of 2022

ORDER

WEB COPY

This Civil Revision Petition is preferred against the order passed in I.A.No.1 of 2021 in O.S.No.22 of 2011, dated 04.10.2021 on the file of the Sub Court, Ambasamudram.

2. The revision petitioner as plaintiff filed the above suit in O.S.No.22 of 2011 for specific performance against the respondents by stating that the suit property belong to the first respondent by virtue of a registered sale deed, dated 21.01.1981. The second respondent is the son of the first respondent and when the first respondent intended to sell the suit property, the revision petitioner expressed his willingness to purchase the same for a sum of Rs.1,10,000/- and the first respondent agreed for the same and accordingly, they entered into an un-registered sale agreement on 09.06.2010 with a condition to execute the sale within the stipulated time. The first respondent also handed over the certified copy of the sale deed to the revision petitioner and also handed over the possession of the property to the revision petitioner. While so, the first respondent with an intention to defraud the revision petitioner executed a registered sale deed, dated 30.09.2010 in favour of his son, the second respondent herein. Hence, the

2/7



C.R.P(MD)No.2127 of 2022

revision petitioner was constrained to file the above suit for specific performance. However, in the written statement filed by the respondents, the signature of the first respondent in the sale agreement was denied and therefore, filed an application in I.A.No.22 of 2013 for comparison of signature and the same was allowed by the Trial Court directing for expert opinion. The Trial Court ordered for expert opinion by comparing the signature affixed in the sale agreement with the signature affixed in the sale deed executed by the first respondent in favour of the third respondent. The expert opined that the signature differs. Hence, the revision petitioner filed an application in I.A.No.1 of 2021 to scrap the report filed by the expert and requested to compare the signature of the first respondent with the admitted signature of the first respondent affixed by him in Crime No.139 of 2010 pending before the Judicial Magistrate, Amabasamudram. However, the said application was dismissed by the Trial Court. Aggrieved by this, the present revision is preferred.

3. Though the names of the respondents printed in the cause-list, they did not appear neither in person nor through Counsel.



C.R.P(MD)No.2127 of 2022

4. Heard the learned Counsel for the petitioner and perused the materials available on record.

5. The contention of the revision petitioner is that the Trial Court in I.A.No.22 of 2013 directed the expert to compare the signature affixed in the suit agreement with that of the signature in the sale deed executed by the first respondent in favour of the third respondent. The expert opined that the signatures differs in the above documents. Hence, he filed an application in I.A.No.1 of 2021 to scrap the said report and to compare the signature of the first respondent with that of the signature affixed by him in the case records pending before the Judicial Magistrate pertaining to Crime No.139 of 2010. The Trial Court dismissed the said application stating that the report of the expert is not a conclusive proof and the same can be corroborated with that of the oral and documentary evidence adduced by the parties.

6. The present application is filed by the plaintiff to scrap the report of the hand writing expert on the ground that the expert in his report opined that the disputed signature differs from that of the admitted signature. As rightly pointed out by the Trial Court, the report of hand writing expert is



C.R.P(MD)No.2127 of 2022

not a conclusive proof, which means that it should be evaluated along with other evidence in the case. Moreover, only on the following grounds, the report of an expert can be challenged:

- "1) Lack of proper specimen hand writing,*
- 2) Improper collection of specimen hand writing,*
- 3) Questionable expertise of the hand writing expert and*
- 4) Contradictions with other evidence in the case."*

Therefore, the report of the hand writing expert can be scrapped or disregarded only in the above situations.

7. In the present case, the revision petitioner / plaintiff contention is that the expert opined that the disputed signature differs from the admitted signature. Hence, he filed an application to scrap the said report and to compare the signature of the first respondent / first defendant with that of the signature affixed in the case records pertaining to Crime No.139 of 2010 on the file of the Judicial Magistrate Court, Ambasamudram. The specimen signature is nothing but a signature found in the sale deed said to have executed by the first respondent / first defendant in favour of the third respondent / third defendant. Since the report is not in favour of the



C.R.P(MD)No.2127 of 2022

petitioner / plaintiff, the same cannot be scrapped. Moreover, the report of the expert can be contradicted with other evidence in the case. The Court have the discretion to scrutinize the expert's methodology, the quality of the specimen hand writing used for comparison and the overall reliability of the report before accepting it. Nowhere it is stated that it is not a proper specimen. As stated earlier, the report of a hand writing expert is considered opinion evidence, not a conclusive proof. Since the petitioner has not made out any grounds as stated above for challenging the report of the expert, no infirmity or perversity found in the order passed by the Trial Court.

8. In the result, the present revision petition is dismissed as devoid of merits. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

29.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Sub Court,
Ambasamudram.

6/7



WEB COPY



C.R.P(MD)No.2127 of 2022

K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
C.R.P(MD)No.2127 of 2022

29.01.2025