

?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%Dated: 12.02.2019

*CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

+C.R.P.(PD)(MD)No.1573 of 2015

#1.V.Shanthi

2.Geethalakshmi .. Petitioners

Vs.

\$1.S.N.M.Ismail

2.Mohammed Farook .. Respondents

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.01.2015 made in I.A.No.622 of 2014 in O.S.No.47 of 2014 on the file of the learned I Additional District Judge(PCR Court), Thanjavur.

!For Petitioners : Mr.V.Singan

^For Respondents : Mr.P.Vadivel

:ORDER

This petition is filed against the order passed in I.A.No.622 of 2014 in O.S.No.47 of 2014 dated 23.01.2015 on the file of the learned I Additional District Judge(PCR Court), Thanjavur.

2.The respondents are the defendants and the respondents are the plaintiffs in the suit. The respondents have filed a suit in O.S.No.47 of 2014 before the learned I Additional District Judge(PCR Court), Thanjavur for a relief of specific performance. The petitioners are denying the signature in the unregistered sale agreement. The petitioners filed a petition in I.A.NO.622 of 2014 before the learned I Additional District Judge(PCR Court), Thanjavur for sending the disputed signature for an expert opinion and the petition was dismissed by the lower Court.

3.On the side of the petitioners, it is stated that the trial Court dismissed the petition on the ground that the documents to be compared are Driving licence, Lease Deed and the specimen signature of the petitioners in a white paper. The lower Court has dismissed the petition stating that the signature in the Driving licence is very small which cannot be compared and that the Lease Deed is executed only after the suit and that the specimen signature in the white blank paper is also taken after the filing of the suit and however, the trial Court has no other objections in comparing the signatures.

4.On the side of the petitioners, it is stated that a petition to receive documents is filed before this Court and the documents now filed can be used for comparison of the signature with that of the signature in the alleged agreement.

5. On the side of the respondents, it is stated that the trial Court has correctly rejected the petition and the documents filed for comparison are not genuine documents and there is nothing to interfere in the order passed by the trial Court.

6. A perusal of the records reveals that the petitioners have filed the original passport and original R.C. Certificate and a copy of the partition deed for comparison. There cannot be any objection on the part of the respondents to compare the signature of the passport and R.C. Certificate with the disputed documents. The petitioners undertake to produce the original partition deed before the trial Court. In the above circumstances, it is decided that the trial Court can send the disputed signature for the expert opinion to be compared with the original passport and original R.C. Certificate and with the original partition deed to be filed by the petitioner herein.

7. In the above circumstances, the petitioner is directed to pay necessary fee for the expert opinion and the trial Court is directed to appoint an Advocate Commissioner at the cost of the petitioners to produce the original documents for verification before the concerned department. The Registry is directed to return the original passport and the original R.C. Certificate to the petitioner on acknowledgement and on undertaking that the original is to be returned as and when required by the Court and on condition that the same is to be replaced by certified copies. The petitioners have to produce the original partition deed along with the passport and R.C. certificate before the trial Court within a period of one month from the date of receipt of copy of this order. With the above directions, this Civil Revision Petition is allowed and the order passed in I.A.No.622 of 2014 in O.S.No.47 of 2014 dated 23.01.2015 on the file of the learned Additional District Judge (PCR Court), Thanjavur is set aside. No Costs. The Registry is directed to send a copy of this order to the lower Court.

To

1. The learned Sub Judge, Valliyoor.