



IN THE COURT OF 2nd ADDITIONAL SENIOR CIVIL JUDGE,

MORBI.

Special Civil Suit No. 28/2010

:- ORDER BELOW EXHIBIT 124 -:

1. Present application is filed by the plaintiff summon Authorised officer of India Security Press, Nasik Road, Maharashtra-422101. It is stated that in response of the application under right to information, necessary information is provided by above mentioned statutory body. It is also stated that, to prove that when slogan of "Satya Mev Jayate" was started to print on non-judicial stamp of Rs.20/- & 30/-, this witness may be summoned. It is also prayed that witness may be ordered to be remain present with necessary certified copies of resolution, G.R or orders if passed any. Hence, it is prayed that Authorised officer of Security Press may be summoned by this Court.
2. Against this application objections are raised and filed at exhibit-125. In this objections, it is stated that there is no pleading of the plaintiffs to this effect that stamp is forged and fabricated. It is also stated that, document on which reliance is placed by the plaintiffs is also not in name of the plaintiffs. It is also stated that when there is no pleading, plaintiffs can't be allowed to lead evidence in that regard. Hence, prayer

is advanced to reject this application.

3.Arguments of either sides are heard. Ld.Advocate Mr.G.L.Dabhi for the plaintiffs argued that if witness is summoned then it will help the Court to decide this suit. It is also stated that if this witness is examined then defendant will not be at any loss. He argued that, if witness is examined then defendant will have right to cross-examine this witness and this defendant's right will not get prejudice in any manner. Lastly, he submitted that document which is placed on record by plaintiffs is subsequent development. Hence, he prayed to allow this application.

3.1. Per contra, Ld.Advocate for the defendant Mr.P.H.Vala argued that, this application is nothing but dilatory tactics on part of the plaintiffs. He argued that when there is no pleadings of the plaintiffs, then this witness can't be summoned. He also stated that summoning this witness will amount to leading evidence without pleading. Hence, he prayed to reject this application.

4.Having heard both the sides, this Court has gone through the record and proceedings of the case. Be it noted that present suit is filed by the plaintiff for cancellation of sale deed no.2084 dtd. 13.10.1964(exhibit-71). It is required to be noted that plaintiff in his plaint only averred that exhibit-71's sale deed no.2084 dtd. 13.10.1964 is forged and bogus and thus, it is stated that forgery was committed while executing sale deed. In this suit there is specific pleadings of the plaintiffs that before execution of the

disputed sale deed all the persons who are projected as seller in this disputed sale-deed died years before date of execution of sale-deed (i.e.13.10.1964). Beside this no specific pleadings or allegation as to forgery is there by plaintiffs.

5.This court firmly believes that, when there is no pleadings by plaintiffs as to forgery of stamp used for execution of sale-deed, witness mentioned in this application can't be summoned. This Court also believes that, when plaintiffs have not pleaded any fact as to forgery of the stamp, witness to that effect can't be summoned to give evidence. In this case, when there is specific pleadings of the plaintiffs that prior to execution of sale-deed no.2084, dt.13.10.1964, all the persons namely Odhabhai Devsibhai, Khodabhai Devsibhai and Devabhai Bhavanbhai have died, then such allowing this application will not help the plaintiffs in absence of specific pleadings to this effect.

6.It is also required to be noted that, since 2011 plaintiffs were having knowledge as to stamp and alleged used to slogan "Satya Mev Jayte". Till today plaintiffs have not filed by amendment application to that effect in their pleadings. This very fact also suggests that present application in view of absence of specific pleadings to that effect can't be allowed.

7.It is required to be noted that when there is allegation of fraud or forgery by the plaintiff, plaintiff is required to specifically state and aver as to said forgery and fraud in his plaint itself. This Court would like to refer

herein Order 6 Rule 4 of C. P. C. Same runs as under :-

4. Particulars to be given where necessary - In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.

8.If, above stated provision is taken into consideration then it can be gathered that it was for the plaintiff to specifically prove that how fraud and forgery was committed while executing exhibit-71's sale deed no. 2084 dtd. 30.04.1963. In absence of same, plaintiff cannot be allowed to lead evidence which is not in his pleadings. This Court in consonance to this can refer judgement of Hon'ble Supreme Court delivered in case of ***G.S.Ramaswamy Vs. V.K.Senthil delivered in Civil Appeal No.500 of 2022, dt.30.09.2022.*** Hon'ble Supreme Court was pleased to observe thus with regard to allegation of fraud and pleadings with regard to the same.

“7.8 Even the averments and allegations in the plaint with respect to fraud are not supported by any further averments and allegations how the fraud has been committed/played. Mere stating in the plaint that a fraud has been played is not enough and the allegations of fraud must be specifically averred in the plaint, otherwise merely by using the word “fraud”, the plaintiffs would try to get the suits within the

limitation, which otherwise may be barred by limitation."

9. Another fact which required to be noted down herein is that, plaintiff's examination-in-chief came to be filed at exhibit-65 on 07.08.2015. In this examination-in-chief also there is no whisper as to fact which is stated by plaintiffs in this application. To put it differently, it can be said that when plaintiffs were having knowledge about this fact as to use of slogan of "Satya Mev Jayte" since 2011, then why this fact is not mentioned in examination-in-chief. This very fact is not at all explained by plaintiffs.
10. It is also trite law that delay defeats equity. Even this Court would like to observe that, as a matter of fact, lapse of time is a species for forfeiture of right. Hence, it can be said that moving such application almost after eleven years is also one of the grounds to deny prayer which is sought by the plaintiff. Even otherwise cross examination of the plaintiff also does not inspire the confidence of this Court under which this Court can grant the application put forward by the plaintiff.
11. For the foregoing reasons, this Court firmly believes that this application is nothing but dilatory tactics on the part of plaintiff. Hence this application requires to be rejected with direction in the present suit which is more than 10 years old and hitting top of the list of pending cases. Hence, in the better interest of justice, I pass following final order.

:- Order -:

1. Present application of the plaintiff is hereby rejected.
2. As the suit is more than ten years old, both the parties and their advocates are hereby directed to co-operate the Court in early disposal of this suit without seeking any unnecessary adjournments.

Signed and pronounced in the open Court today on this 14th
of November, 2022 at Morbi.

Date : 14.11.2022

(Vikram Karsanbhai Solanki)

Place : M o r b i.

2nd Additional Senior Civil Judge

M o r b i.

U. I. C. No. GJ-01099

MHM/-