

IN THE COURT OF THE SUBORDINATE JUDGE, AVINASHI

Present: Thiru. K. Suresh Kumar, B.A. B.L.,
Subordinate Judge, Avinashi.

Thursday, the 8th day of December, 2022

IA.No.238/2022

in

O.S.No.434/2016

Karuppusamy

.. Petitioner/ 2nd Defendant

-Versus-

1. Vellingiri
2. Dhavamani
3. Savithiri
4. Kavitha
5. Malliga (Died)
6. Jothi
7. Sudha
8. Amsaveni
9. Banumathi

... Respondents /Plaintiffs

This petition was filed on file on 11.04.2022 and coming to day before me in the presence of Thiru.A.Chinnasamy, Advocate for the petitioner and Thiru.V.K.Subramaniam, Advocate for the respondents and having stood over this day for consideration this court delivered the following :

ORDER

This petition is filed seeking to send for the register sale deeds dated 20.09.1996 registered as Document No.3706/1996 and dated 04.09.1996 as Document No.4701/1996 SRO, Avinashi for comparison with his signatures and thumb impression found in the suit sale agreement.

2) The brief facts of the petition is as follows:

The petitioner has filed this petition under Order 75 of Civil Rules of Practice stating that the petitioner's father had executed a registered settlement deed in favour of the petitioner on 19.09.2006 and 20.09.2006 which are already marked as Ex.B12 and B13 on the petitioner's side. Whereas, the respondents are disputing the signature and thumb impression of the petitioner's father Mudali Karuppan in both the aforesaid documents. Since the said Mudali Karuppan had executed two registered sale deeds registered as document No.3706/1996 ad 4701/1996 SRO Avinashi, to one V.Parathuvaraj and S.P.Selvaraj. The signature of the aforesaid two sale deeds. Since the original sale deeds are in the hands of the purchasers. The signature and thumb impression register maintained with SRO Avinashi in which the signature and thumb impression was obtained at the time of registering the documents are to be summoned to the Court to send the same to the expert for comparison.

3) The brief facts of the counter is as follows :-

Whereas the respondent has stated that the deceased Mudali Karuppan never executed any settlement deed in favour of the petitioner on 19.09.2006 and he was not in a good state of health and mind and was unable to understand things around him and he was a paralytic patient and was not able to move, which affected his mental health and he was hospitalized since 2004 and he was also bed ridden for 2 years and also the suit properties are ancestral and joint family properties and no

settlement deed could be executed in respect of ancestral and joint family properties and hence the petition is liable to be dismissed.

4) POINT: Whether the petition is allowed or not?

Heard both sides and on perusal of the petition and counter statement it is found that the petitioner rely on settlement deeds dated 19.09.2006 and 20.09.2004 executed by the petitioner's father Mudalikaruppan and the same is disputed by the respondents as the said Mudalikaruppan was not in a position to execute the said settlement deeds. Since he was physically and mentally ill and also he was also affected by paralysis. Since the respondents dispute the genuineness of the aforesaid documents, it is burden of the petitioner's to prove the same and since the contemporary documents namely the sale deeds executed by Mudalikaruppan the original documents with the purchasers, this Court is of the opinion that in order to provide the parties ample opportunities to prove their case and produce their best evidence. This petition shall be allowed and payment of cost.

In the result, this petition is allowed on payment of cost of Rs.2000/- by the petitioner to the respondents on the before 19.12.2022, failing which petition stand as dismissed.

Dictated to typist and typed by her directly, corrected and pronounced by me, in the Open court on the 08th day of December 2022.

Subordinate Judge,
Avinashi.

No oral or documentary evidence on both sides.

Subordinate Judge,
Avinashi.