

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1949 of 2022

and C.M.P.(MD).No.8954 of 2022

V.Palanisamy

...Petitioner

Vs.

1.Chinnaiah @ Villan

2.Meyyan

3.Ramayee

4.Lakshmi

5.Vallan Poosari

6.Palanisamy

7.Prabhu

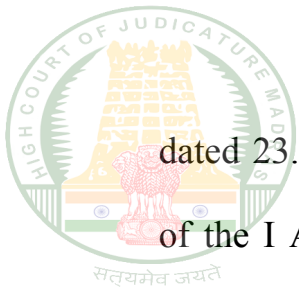
8.Azhagammal

9.V.Vallan

10.V.Vellaiyan

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the impugned fair and decreetal order



dated 23.11.2021 made in I.A.No.2 of 2021 in O.S.No.277 of 2018 on the file of the I Additional District and Sessions Court (PCR), Tiruchirappalli and set aside the same by allowing this petition as prayed for.

For Petitioner : Mr.S.Vishnuvardhan

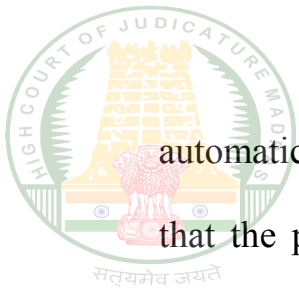
For R-1 : Mr.K.Prabhakar

For R-5 to R-10 : No Appearance

ORDER

This petition has been filed to set aside the impugned fair and decreetal order dated 23.11.2021 made in I.A.No.2 of 2021 in O.S.No.277 of 2018 on the file of the I Additional District and Sessions Court (PCR), Tiruchirappalli.

2. The petitioner/plaintiff filed a suit in O.S.No.277 of 2018 before the trial Court seeking the relief of specific performance based on a sale agreement dated 05.06.2018. Pending suit, the petitioner filed I.A.No.2 of 2021 under Order XXVI Rule 10(a) CPC read with Section 151 CPC, seeking appointment of an Advocate Commissioner to forward the disputed sale agreement dated 05.06.2018 along with the admitted sale deed dated 10.10.1984 to a handwriting expert for comparison of signatures. The trial Court allowed the application on 23.11.2021 subject to a condition that the respondents/defendants shall produce documents containing their admitted signatures, falling within a period of three years before or after the disputed agreement date (05.06.2018), within 15 days. It was further ordered that in case of non-compliance, the petition would stand



automatically dismissed. According to the petitioner, the respondents, knowing that the production of such documents could be detrimental to their defence, wilfully failed to produce them within the stipulated period. As a result, by operation of the conditional order, the application stood dismissed. The petitioner challenges the imposition of such an automatic dismissal condition as being unsustainable in law and prejudicial to his case.

4. The learned counsel for the petitioner submitted that there is no admitted signature of the respondents available within the stipulated “three years before” period from the date of the disputed sale agreement. However, a document dated 09.11.2018 (Document No.2050 of 2018) is available, which is within a reasonable period after the disputed agreement, and can be sent for comparison with the signature in the sale agreement dated 05.06.2018.

5. The learned counsel for the respondents fairly submitted that there is no serious objection to the disputed sale agreement dated 05.06.2018 being compared with the admitted signature in Document No.2050 of 2018 dated 09.11.2018.

6. The object of Order XXVI Rule 10(a) CPC is to enable the Court to obtain expert opinion where handwriting, signature, or seal is in dispute, so that the Court can arrive at a just conclusion based on technical evidence. Such



procedural provisions must be applied in a manner that furthers the cause of justice and not in a manner that shuts the door on adjudication of a material issue.

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7. In the present case, while the trial Court had initially allowed the petitioner's request, the imposition of an automatic dismissal clause for non-production of documents within 15 days has, in effect, frustrated the object of the order. Once the Court has exercised its discretion to obtain expert opinion, it is appropriate that the Court identifies an admitted signature document reasonably proximate in time to the disputed document and sends both for comparison.

8. Since the respondents do not object to using Document No.2050 of 2018 dated 09.11.2018 for comparison, this Court finds it just and proper to modify the trial Court's order and direct comparison accordingly.

9. In view of the above discussion, the order dated 23.11.2021 in I.A.No. 2 of 2021 is modified as follows:

The trial Court shall forward the disputed sale agreement dated 05.06.2018 and the admitted document dated 09.11.2018 (Document No.2050 of 2018) to the handwriting expert for comparison of signatures and receipt of



report. Upon receipt of the expert's report, the trial Court shall proceed with the suit and dispose of the same on merits and in accordance with law, uninfluenced by any earlier observations.

10. This Civil Revision Petition is allowed to the extent indicated above.

No order as to costs. Consequently, the connected miscellaneous petition is closed.

05.08.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The I Additional District and Sessions Court (PCR), Tiruchirappalli.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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