

Thangamani. Vs. Devi.

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Court : Chennai

Decided On : Jul-25-2012

Judge : V.Dhanapalan, J.

Appeal No. : C.R.P. [P.D.] No.3353 of 2011

Appellant : Thangamani

Respondent : Devi

Advocate for Def. : Mr.N.Manokaran, Adv

Advocate for Pet/Ap. : Mr.T.Murugamanickam, Adv

Judgement :

PRAYER: Revision filed against the fair and final order dated 29.4.2011 made in I.A.No.188 of 2010 in O.S.No.761 of 2003 on the file of the II Additional District Munsif Court, Erode.

ORDER

1. This Civil Revision Petition has been filed challenging the order of the learned II Additional District Munsif, Erode, made in I.A.No.188 of 2010 in O.S.No.761 of 2003 dated 29.4.2011.

2. The revision petitioner is the plaintiff in the suit in O.S.No.761 of 2003 and the suit has been filed praying for a decree of partition and separate possession of his share to be allotted. The respondent filed a written statement and the matter has been proceeded on trial. At that stage, the petitioner filed an application to pass an order, sending the sale deed dated 10.4.1995, which contains the disputed signature, along with admitted signatures, to the Handwriting Expert attached to the Tamil Nadu Forensic Department of Madras, in order to get the expert opinion. The learned trial Judge, taking into consideration the contention of the petitioner that he has submitted three documents on the ground that they are the admitted documents, whereas the respondent has filed an objection that the documents produced by the petitioner are not genuine and they are self-serving documents, arrived at the conclusion that the three documents, viz, [i] membership card, [ii] and [iii] being private documents, are not the authenticated documents so as to consider them as genuine and further taking into account the submission of the petitioner that no other document is available except these three documents, and ultimately closed the petition holding that those documents cannot be sent to the expert for comparison. Aggrieved, the petitioner is before this Court by way of this revision.

3. Mr.T.Murugamanickam, learned counsel appearing for the petitioner would contend that the finding of the trial Court that the documents sought to be compared are not authenticated documents, is not correct and the court below ought to have allowed the petition seeking comparison of the signatures found in the disputed documents with that of the admitted documents, in the absence of availability of any other documents.

4. On the other hand, the learned counsel appearing for the respondent would contend that the documents produced by the petitioner are not genuine and they are self-serving documents, and therefore, the conclusion arrived at by the trial court cannot be found fault with.

5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. Admittedly, the petitioner is the plaintiff and he has filed a suit for partition and separate possession of his share to be allotted and that the respondent contested the matter by filing a written statement and that the matter has been proceeded on trial. At that stage, the petitioner made an attempt to send all the three documents to the Forensic Lab for expert opinion on the ground that the disputed documents have to be compared with the admitted documents to arrive at the right conclusion in respect of the claim of the petitioner. The trial court took a view that first document is a membership card and the second and third documents being private documents, viz., a promissory note and a letter written by the deceased father, and arrived at the finding that those three documents are private documents, which are not authenticated document so as to treat them as genuine documents and thus, rejected the claim of the petitioner for sending it for the expert opinion.

7. The law is well settled that when the petitioner, being the plaintiff, relies upon a document, it is for him to prove his case by letting in oral and documentary evidences, including the genuineness and authenticity of such documents. But here is a case, wherein the petitioner/plaintiff has made an attempt to send the documents for expert opinion, and therefore, the trial court has arrived at the right conclusion that it is not proper to send the documents for expert opinion. Accordingly, finding no merit, the Civil Revision Petition stands dismissed, thereby confirming the order passed by the trial court. It is needless to say that the petitioner is at liberty to contest the matter, uninfluenced by the finding as to the genuineness or authenticity of the document, as observed by the trial court, and prove his case independently by letting in oral and documentary evidences.

8. With the above observation, the Civil Revision Petition stands dismissed. No costs. M.P.No.1 of 2011 is closed.

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