

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-12-2015

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

C.R.P.(PD).No.1507 of 2013
& M.P.No.1 of 2013

A.S.A.Shanthaseelan

.. Petitioner

Vs.

Thiru.Rajusundaram

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 24.01.2013 in I.A.No.49 of 2013 in O.S.No.73 of 2009 on the file of the Sub-Court, Panruti.

For petitioner : Mr.M.V.Muralidaran

For respondent: Mr.K.Moorthy

ORDER

This Civil Revision Petition is filed against the order dated 24.01.2013 passed by the learned Subordinate Judge, Panruti, in I.A.No.49 of 2013 in O.S.No.73 of 2009, dismissing the application filed by the revision petitioner/defendant for receiving a document and to mark the same as a document on his side.

2. Learned counsel for the revision petitioner/defendant contended that the defendant produced a receipt issued by the respondent/plaintiff regarding

the alleged payment of amount to the plaintiff and the said document was produced by the defendant to receive the same, but the lower Court, without any valid reason, rejected to receive the the document and hence, he prayed that the Civil Revision Petition may be allowed and the document may be received as prayed for.

3. Learned counsel for the respondent/plaintiff contended that the document is not in specific form and it is without any signature and hence, the lower Court is correct in rejecting to receive the document as an evidence. There is no reason to interfere with the impugned order passed by the lower Court and therefore, he prayed that the Civil Revision Petition may be dismissed.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. It is seen that from the copy of the document sought to be received on the side of the revision petitioner/defendant that it is only a receipt and no signature is found in the said document. According to the petitioner/defendant, the said document was written by the plaintiff himself in his own handwriting. Whether the document is written by the plaintiff in his own handwriting or not, has to be considered after adducing evidence by the defendant and after cross-examination by the plaintiff and the validity of the document has to be decided by the Court only at the time of judgment. It is premature to hold that the said document is not in proper form or it is not a receipt, so as to reject the document at this stage. Hence, the document has to be received, subject to objection on

the side of the plaintiff and the plaintiff has to be permitted to cross-examine the witness on side of the defendant regarding the validity of the said document.

6. In the above circumstances, the Court below is not correct in holding that the document is not in proper form and it cannot be considered as evidence. Therefore, the impugned order of the Court below is liable to be set aside. Accordingly, the impugned order is set aside and the Civil Revision Petition is allowed. The revision petitioner/defendant is directed to produce the document before the lower Court and the Court below is directed to mark the document on the side of the defendant, subject to objection on the side of the plaintiff and the plaintiff is permitted to cross-examine the witness regarding the validity of the above document. No costs. The Miscellaneous Petition is closed.

16-12-2015

Index: Yes/no
Internet: Yes/no

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1. The Subordinate Judge, Panruti.
2. Record Keeper, V.R. Section, High Court, Madras.

G.CHOCKALINGAM,J

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