

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10-07-2015**

CORAM

THE HONOURABLE Dr.JUSTICE **S.TAMILVANAN**

**C.R.P (PD).Nos.4478 and 4479 of 2010
and M.P.Nos.1 and 1 of 2010**

T.Gurunathan

... Petitioner in both the CRPs

Versus

1. V.Susila
2. S.Thangamani
3. A.Vairavelu
4. A.Nirmala

... Respondents in both the CRPs

Civil Revision Petitions filed under Section 227 of the Constitution of India, to call for the records pertaining to I.A.No.428 of 2010 and I.A.No.429 of 2010 in O.S.No.161 of 2007 on the file of the Additional District Judge / Fast Track Court No.1 at Coimbatore, dated 22.10.2010 and to set aside the same.

For Petitioner : Mr.K.P.Gopalakrishnan
in both the CRPs

For Respondents : Mr.N.Anand Venkatesh for R1 and R2
in both the CRPs
No Appearance for R3 and R4

ORDER

C.R.P (PD).No.4478 of 2010 has been filed, challenging the order, dated 22.10.2010 made in I.A.No.428 of 2010 in O.S.No.161 of 2007 on the file of the Additional District Judge / Fast Track Court No.1, Coimbatore.

2. C.R.P (PD).No.4479 of 2010 has been preferred challenging the

order, dated 22.10.2010 made in I.A.No.429 of 2010 in O.S.No.161 of 2007 on the file of the Additional District Judge / Fast Track Court No.1, Coimbatore.

3. The Interlocutory Application in I.A.No.428 of 2010 was filed before the Court below, under Section 151 of the Code of Civil Procedure, seeking an order to reopen the case, so as to enable the defendants 3 and 4 to send the documents, Exs.A.1 and A.2 and Exs.B.1 and B.2 to the hand-writing expert for comparison.

4. The Interlocutory Application in I.A.No.429 of 2010 was filed before the Court below, under Order 26 Rule 10A and 10B and Section 151 of the Code of Civil Procedure, seeking an order to send the under-mentioned documents in the application to "The Director", Forensic Science Laboratory at Kamarajar Salai, Mylapore, Chennai-4, through an Advocate-Commissioner appointed by the Court below, with a direction to verify and compare the signatures of Arunachalam, found in the documents 1 and 2 with that of the admitted signatures of Arunachalam, towards in Documents 3 and 4 detailed thereunder to give reports on them and to give such other directions as the Court may deem fit and proper.

5. The suit in O.S.No.161 of 2007 was filed before the Court below by

T.Gurunathan, the revision petitioner herein, seeking Judgment and Decree, directing the defendants therein to pay the revision petitioner / plaintiff, a sum of Rs.15,67,500/- with interest and costs and other consequential reliefs, based on a promissory note, dated 25.08.2003.

6. As per the impugned Docket order, I.A.No.428 of 2010, the application was allowed by the Court below for sending the Documents to get expert opinion. The another application in I.A.No.429 of 2010 was also filed by the said defendants, seeking an order to send the under-mentioned documents to The Director, Forensic Science Laboratory at Kamarajar Salai, Mylapore, Chennai-4, through an Advocate-Commissioner appointed by the Court below, with a direction to verify and compare the signatures of Arunachalam, found in the documents 1 and 2 with that of the admitted signatures of Arunachalam, in respect of the Documents detailed thereunder to give reports on them and to give such other directions as the Court may deem fit and proper. The said I.A.No.429 of 2010 was also allowed, whereby an Advocate-Commissioner was appointed to carry the document in a sealed cover to the expert TNFSL, enabling them to take necessary steps and remuneration of Rs.10,000/- was also fixed by the Court below towards Advocate-Commissioner. Challenging the aforesaid orders, the Civil Revision Petitions in C.R.P (PD).Nos.4478 and 4479 of 2010 have been preferred by the plaintiff in the suit.

7. It is not in dispute that the respondents 1 and 2 / defendants 3 and

4 have filed the Interlocutory Applications in the part-heard case, however, it is seen that the defendants 3 and 4 have denied the execution of the promissory note and also passing of consideration specifically in their written statement. On the said circumstances, the defendants 3 and 4 have come forward with the Interlocutory Applications, seeking orders to re-open the above case to enable them to send the documents, Exs.A.1 and A.2 and Exs.B.1 and B.2 to the Handwriting expert for comparison and to send the petition-mentioned documents to the Director of Forensic Science Laboratory at Kamarajar Salai, Mylapore, Chennai-4, through an Advocate-Commissioner, with direction to verify and compare the signatures of 'Arunachalam' found in the said documents, based on the admitted signature available in the other documents and to give necessary reports on the same.

8. Considering the facts and circumstances, the trial court allowed the petition, seeking expert opinion and also appointed an Advocate-Commissioner to take the document to the Forensic Science Laboratory at Mylapore and to give reports to the Court. The relief sought for in the suit is for a sum of Rs.15,67,500/- to be paid with subsequent interest and costs by the Defendants based on pronote.

9. Having considered the relief sought for in the Interlocutory

Applications and the objection raised in the counter, the Court below has passed the impugned orders, which is no way contrary to the law and facts relating to the suit. Hence, this Court is of the view that the revision petitions preferred by the revision petitioner / plaintiff is not legally sustainable and accordingly, the same are liable to be dismissed. However, having considered the pendency of the case for a long time, this Court directs the Court below to dispose the suit, according to law, within a time frame.

10. The respondents / defendants 3 and 4 shall deposit the amount towards the expense, as directed by the Court below within two weeks from the date of receipt of a copy of this order. The Advocate-Commissioner is also entitled to seek additional remuneration. If the Advocate-Commissioner is not practicing before the Court below, it would be open to the Court below to appoint some other Advocate-Commissioner and the remuneration shall also be fixed at the discretion of the Court below, considering the facts and circumstances of the case.

11. It is made clear that the Advocate-Commissioner shall be responsible for the safety of handing over and getting it returned to the Court for proper disposal of the suit. Alternatively if it warrants to call expert to the Court

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below and take photographs, the same may also be considered and ordered by the Court below, if it is not feasible to send the document through Advocate-Commissioner, for which the respondents / defendants 3 and 4, who filed the Interlocutory Applications before the Court below shall meet the expenses, subject to the result of the Judgment to be passed by the Court below after the trial. Both the parties are directed to co-operate for early disposal of the suit. The Court below shall make its endeavour to dispose the suit, according to law, within six months, without seeking any extension of time. The Registry is directed to communicate the order and also send the material papers, if any to the Court below immediately.

12. With the above observations, both the Civil Revision Petitions are dismissed. Consequently connected miscellaneous petitions are dismissed. No order as to costs.

10-07-2015

Index : Yes / No

Internet : Yes / No

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To

The Additional District Judge / Fast Track Court No.1
Coimbatore.

**Order in
C.R.P (PD).Nos.4478 and
4479 of 2010**