



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2015

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (PD) No. 161 of 2015

and

M.P. (MD) No. 1 of 2015

R. Muthuraj .. Petitioner/Petitioner/Defendant

Vs.

E. Samuthiranpandi ... Respondent/Respondent/Plaintiff

Prayer: Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in I.A.No.492 of 2013 in O.S.No.144 of 2007, dated 24.09.2014 on the file of the Subordinate Court, Tuticorin, Tuticorin District.

For Petitioner : Mr.S.Muthalraj

ORDER

The Civil Revision Petition is filed against the order refusing to send the signature found in the suit promissory note to be compared with the signature in the vakalat.

2. Heard the learned Counsel for the petitioner.

3. I.A.No.492 of 2013 is filed by the defendant for the above said relief. The said application was dismissed by the Subordinate Court, Tuticorin, firstly on the ground that the suit is of the year 2007 and the application is filed after six years, after the trial has been commenced and P.W.'s evidence is over; secondly the signature cannot be compared with the signature which is subsequent to the disputed one.

4. It is settled principle that only the contemporaneous document containing the signature can be compared with the disputed signature and certainly not the signature that is found in the vakalat or in other document. So far as the burden of proof is also concerned, it is for



the plaintiff to prove the execution of the document. Therefore the said application is filed by the defendant only to delay the proceedings and there is no *bonafide* in the same. This has been rightly observed by the trial Judge and dismissed the application. Therefore, there is no infirmity or irregularity in the order passed by the trial Court.

5. Accordingly, the Civil Miscellaneous Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. No costs.

Sd/-
Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

The Subordinate Judge, Tuticorin,
Tuticorin District.

+1cc to Mr.S.Muthuraj,Advocate, SR.No.6591

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