



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2015

C O R A M

THE HONOURABLE Dr.JUSTICE P.DEVADASS

C.R.P.(MD).No.2165 of 2015(PD)

and

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

1.Saroja

2.Minor P.Praveen

3.Minor.P.Naveen

...Petitioners / Petitioners/ Defendants

Vs

N.Ramalingam

...Respondent / Respondent / Plaintiff

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 01.08.2015 made in I.A.No.83 of 2015 in O.S.No.318 of 2013 on the file of the Additional Sub Court, Karur.

For Petitioner ... Mr.S.Gokulraj

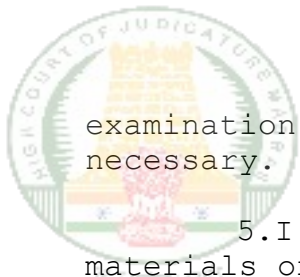
O R D E R

As only a short point is involved, we shall dispose of this revision today at the admission stage itself.

2.One Balasubramanian, said to have borrowed Rs.4 lakhs from the plaintiff, executing a promissory note. As he passed away and the amount was not paid after issuance of a lawyer notice to the legal heirs of late Balasubramanian, the plaintiff/respondent filed O.S.No.318 of 2013 for recovery of money in the Court of Subordinate Judge, Karur. The defendants filed written statement raising several contentions, *inter alia* that the signature and the thumb impression in the promissory note are forged. Issues were framed. The suit ripe for trial.

3.The defendants have filed I.A.No.83 of 2015 to send the suit promissory note viz., Ex.A1 promissory note for the comparison of signature and thumb impression with the admitted signature and thumb impression of late Balasubramanian in the sale deed dated 25.02.2008, executed by Balasubramanian, while he was alive. It was opposed by the plaintiff. The trial Court dismissed the I.A on the ground that the said sale deed containing signature and thumb impression of Balasubramanian is not contemporaneous to Ex.A1.

4.According to the learned counsel for the petitioners, the suit promissory note is manufactured, cooked up and was intended to rope late Balasubramanian in an unreal loan transaction. Now, he is no more. Now, his legal heirs are placed in a piquant situation. The very genuineness of the suit promissory note is in issue. In such circumstances,



examination of the signature and thumb impression by an expert become necessary.

5.I have anxiously considered the rival submissions, perused the materials on record and the impugned order of the Court below.

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6.Now, this issue has become a sheet anchor for the defendants and finding the truth of Ex.A.1 is beneficial to both sides.

7.In such circumstances, the trial Court ought to have given an opportunity to defendants. Delay shall not allow to defeat justice.

8.In such circumstances, ordered as under;

(1)The order and fair order of the learned Subordinate Judge, Karur passed in I.A.No.83 of 2015 in O.S.No.318 of 2013 are set aside and I.A.No.83 of 2015 in O.S.No.318 of 2013, are allowed;

(2)the learned Subordinate Judge, Karur will appoint an Advocate / Commissioner and hand over the suit promissory note to the said Advocate / Commissioner after taking xerox copy of the same and kept it in the case bundle;

(3)the learned Advocate/Commissioner will take Ex.A.1 and the sale deed dated 25.02.2008 standing in the name of late Balasubramanian to an hand-writing expert and a finger print expert for comparison and his opinion and submit the same to the trial Court;

(4)the remuneration for the Advocate/ Commissioner and the fee for experts shall be paid by the revision petitioners/defendants.

(5)within three months from the date of receipt of the expert reports, the learned Subordinate Judge, Karur will dispose of the suit, according to law.

9.With the above direction, the civil revision petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

Ns

To

1.The District Judge, Karur.

2.The Additional Subordinate Judge, Karur.

Copy to

The Registrar Judicial, Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.S.Gokulraj Advocate Sr.No.59364

GJM/SKS/RR/26.10.15-2P-5C