

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2016

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).Nos.4675 and 4696 of 2015
and M.P.Nos.1 and 1 of 2015

K.Jayapal

.. Petitioner
in both C.R.Ps

Vs

V.Dayalan

.. Respondent
in both C.R.Ps

Prayer in C.R.P.No.4675 of 2015:Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 08.10.2015 made in I.A.No.540 of 2015 in O.S.No.323 of 2013 on the file of the Principal District Munsif Court, Vellore, Vellore District.

Prayer in C.R.P.No.4696 of 2015:Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 08.10.2015 made in I.A.No.539 of 2015 in O.S.No.323 of 2013 on the file of the Principal District Munsif Court, Vellore, Vellore District.

For Petitioner
in both C.R.Ps : Mr.S.Gunaseelan

COMMON ORDER

These Civil Revision Petitions have been filed challenging the impugned orders passed in I.A.Nos.539 and 540 of 2015 in O.S.No.323 of 2010 dated 08.10.2015 by the Principal District Munsif Court, Vellore, Vellore District.

2.The respondent as a plaintiff filed a suit for recovery of money due on a promissory note dated 20.11.2010. The suit has been filed after issuance of notice dated 13.08.2013. The petitioner as a defendant filed a written statement and contested the suit. During the pendency of the suit, the petitioner filed two applications, viz., I.A.No.539 of 2015 to send for the promissory note dated 05.03.2006 marked as Ex.A1 in O.S.No.159 of 2012 and I.A.No.540 of 2015 to appoint an Advocate Commissioner. The Trial Court after hearing both sides, dismissed both the applications. Against which, the present Civil Revision Petition has been preferred.

3.Learned counsel for the petitioner submitted that the suit has been filed on the basis of the promissory note dated 20.11.2010 and the petitioner/defendant raised a plea that the promissory note is a forged one. Admittedly, he is not having any document containing the admitted signature for the year 2010 and so, he filed an application to send for the document which was marked as Ex.A1 in O.S.No.159 of 2012. But the Trial Court has held that the document cannot be considered as the document for the contemporary period and the petitioner is not entitled to discretionary relief since he has suppressed the material facts. He further submitted that to prove that the suit promissory note is forged one, it is necessary to send the document to the Forensic Department for obtaining hand writing expert

opinion. That factum has not been considered by the Trial Court. Hence, he prayed for setting aside the impugned order passed by the Trial Court.

4.Considered the submissions made by the learned counsel for the petitioner and also perused the typed set of papers.

5.The respondent as a plaintiff filed a suit for recovery of money due on a promissory note dated 20.11.2010. The suit has been filed after issuance of notice dated 13.08.2013 along with acknowledgment, but no reply has been sent. The petitioner as a defendant filed a written statement and contested the suit, wherein he has stated that he did not received any money. But he has specifically stated in paragraph No.4 of the written statement as “the defendant specifically denies the borrowing of the said sum of Rs.30,000/-, execution of the alleged promissory note, passing of consideration and due attestation of the said promissory note and the plaintiff is put to strict proof of the same” and in paragraph No.6 of the written statement, he has stated as “the plaintiff had not mentioned about the promissory note dated 20.11.2010 earlier on any occasion. Now the plaintiff appears to have fabricated a promissory note forging the signature of defendant with the dishonest intention to grab money from the defendant.” Once the petitioner/defendant disputed the signature in the promissory note by raising the plea of forgery

and if he want to send the document to the Forensic Department for hand writing expert opinion, he ought to have produced the document containing the admitted signature during the contemporary period and then only, it will facilitate the hand writing expert to compare the disputed signature with the admitted signature. In the Trial Court the petitioner/defendant has not produced the document for the contemporary period and he filed an application I.A.No.539 of 2015 to send for the document dated 05.03.2006 which is nearly four years prior to the disputed signature. Hence the Trial Court has rightly held that since the petitioner/defendant has not produced any document containing the admitted signature during the contemporary period, no purpose will be served for appointment of Advocate Commissioner. Hence I do not find any reason to interfere with the order passed by the Trial Court in I.A.No.540 of 2015 and the same is hereby confirmed.

6.Further, since the document produced to send the same to the Forensic Department for obtaining hand writing expert opinion related to the year 2006, it will not be for the contemporary period. So, the Trial Court has considered all the aspects in proper perspective and came to the correct conclusion. Hence, the impugned order passed by the Trial Court in I.A.No.539 of 2015 does not warrant any interference and the same is hereby confirmed. Consequently, both the revision petitions deserve to be dismissed as devoid of merits.

7. In the result, both the Civil Revision Petitions are dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

08.01.2016

Index: Yes/No
Internet: Yes/No
cse

To

The Principal District Munsif,
Vellore, Vellore District.

R.MALA. J.,

cse

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