

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

C.R.P.(NPD).No.213 of 2010

S.Dhandapani

.. Petitioner

-vs-

S.Sivakami

.. Respondent

PRAYER:- The above Petition is filed against the judgment and decree dated 19.11.2009, passed in A.S.No.17 of 2007, on the file of the Sub-Court, Arani, confirming the judgment and decree dated 08.11.2006, passed in O.S.No.314 of 2005, on the file of the District Munsif Court, Arni.

For Petitioner : Mr.M.Suresh

For Respondent : No Appearance

ORDER

This Civil Revision petition filed, under Section 115 of the Code of Civil Procedure, (CPC), is directed against the judgment and decree, dated 19.11.2009, passed in A.S.No.17 of 2007, on the file of the Sub-Court, Arani, confirming the judgment and decree dated 08.11.2006, passed in O.S.No.314 of 2005, on the file of the District Munsif Court, Arni.

2. The defendant is the petitioner herein and the respondent is the plaintiff. The respondent filed a suit in O.S.No.314 of 2005 on the file of the District Munsif Court, Arani, for recovery of money due on a promissory note dated 10.02.2003 from the petitioner/defendant for a sum of Rs.15,000/-. The trial Court, by judgment and decree dated 08.11.2006, decreed the suit. Aggrieved by the said judgment and decree, the petitioner preferred an appeal in A.S.No.17 of 2007. The first Appellate Court, by judgment and decree dated 19.11.2009, dismissed the appeal and confirmed the judgment and decree passed by the learned trial Court. Aggrieved by such concurrent findings, the present Civil Revision petition has been filed, since a second appeal is not maintainable, as the value of the suit claim is less than Rs.25,000/-.

3. Assailing the concurrent findings of the Courts below, learned counsel for the petitioner submitted that the judgment and decree passed by the learned trial Court is manifestly erroneous, illegal and contrary to law since the trial Court has failed to invoke Section 73 of the Evidence Act for comparing the disputed signature with the admitted signature, for, mere perusal of Ex.A1 – pro-note would show that the signature found in Ex.A1 does not match his signature. Therefore, when such a dispute was raised, it is the duty of the learned trial

Court to send the same for expert opinion, however, without resorting to such remedy, the trial Court, by merely accepting the deposition of PWs 1 to 4, held that the signature found in Ex.A1-pro-note is the signature of the defendant/petitioner herein. On appeal, he contended, learned first appellate Court also, without analyzing the materials on record, just merely agreeing with the judgment of the trial Court, dismissed the appeal.

4. The above said contention of the learned counsel for the petitioner that the learned Court is not having any power to compare the signature of the defendant is wholly misplaced. On a perusal of the impugned judgments and decrees passed by the Courts below vividly show that on taking note of the evidence adduced by P.Ws.1 to 4, who have consistently deposed that the signature found in Ex.A1 only belongs to the defendant/petitioner herein, the Courts below decreed the suit as prayed. Therefore, when the learned trial Court has given a clear finding on the basis of deposition of P.Ws.1 to 4, learned first Appellate Court also has confirmed the same.

5. Thus, in the absence of any perversity in the findings of the

Courts below and in the absence of any material irregularity or illegality in the findings recorded, this Court finds no justifiable ground to interfere with the concurrent judgments and decrees of the Courts below. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2016

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To

- 1) The Sub-Court, Arani.
2. The District Munsif Court, Arni.

T.RAJA J,
rkm

Order in
C.R.P.(NPD).No.213 of 2010

22.08.2016