

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.569 of 2016

and

C.M.P.No.2899 of 2016

M.Duraisamy
S/o.Munirathnam
No.60, Sokayapettai,
Kalari Street, Pallipattu Taluk,
Tiruvallur

... Petitioner

Vs

Ekanathan
S/o.Arumugam,
Othavadai Street,
Sorakayapettai,
Pallipattu Taluk,
Tiruvallur

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decreetal order dated 27.11.2015 made in I.A.No.334 of 2015 in O.S.No.54 of 2011 on the file of the Subordinate Judge, Tirutani and allow this Civil Revision Petition.

For Petitioner : Mr.M.Ravibharathi

ORDER

The defendant in the original suit is the petitioner in the present revision.

2. The respondent herein filed O.S.No.54 of 2011 on the file of Sub Court, Tiruttani for recovery of money based on a promissory note dated 01.05.2008. The petitioner herein / defendant initially remained *ex-parte* and only when execution of the decree was sought to be levied, he came forward with an application to set aside the *ex-parte* decree and the Court was generous enough to allow the said petition and set aside the *ex-parte* decree.

3. Thereafter, revision petitioner herein filed his written statement. Paragraph 3 of the written statement contains an averment as if he was shocked to note that he had executed a promissory note in favour of the plaintiff. The averment in the written statement proceeded further that at no point of time, he gave any promissory note to plaintiff. However, in the subsequent sentence, he has claimed that the suit came to be filed on a forged promissory note. Based on the written statement, issues were framed and the trial commenced. After completion of the evidence on the side of the

plaintiff and when the matter stood listed for adducing the evidence on the side of the defendant, the petitioner filed I.A.No.334 of 2015 for referring the suit promissory note as Ex.P-1 to the Forensic Department along with some receipts for the purchase of some commodities by the revision petitioner, for comparison by an expert.

4. The supporting affidavit simply contains an averment that the document should be sent to the Forensic Department for comparison of signature and thumb impression found in Ex-P-1. The petitioner/defendant has not chosen to produce any document containing his admitted signature and thumb impression. On the other hand, from the reading of the order of the trial Court, it is seen that the petitioner/defendant wanted to send some of the bills produced during the enquiry in the application for the purpose of comparison. Those documents were found to be self serving documents and no thumb impression was found in them. Normally, the purchase bills will not have the signature of the purchasers. That is the reason why the learned trial Judge has chosen to make a remark that the documents sought to be relied on were self serving documents.

P.R.SHIVAKUMAR, J

srn

5. Upon hearing the submissions made on the side of the petitioner and upon perusing the relevant documents, this Court does not find any defect or infirmity in the orders passed by the trial Court dismissing the application filed by the revision petitioner/defendant. As the intention of the petitioner to drag on the case is manifest in the above said particulars referred to above, there is no merit in the revision petition and the same deserves to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

02.03.2016

Index: Yes/No
Internet: yes/No
srn

To
The Subordinate Judge, Tirutani

C.R.P.[PD] No.569 of 2016
and
C.M.P.No.2899 of 2016