

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.639 OF 2016
AND CMP NO.3295 OF 2016

Mahaboob Basha

... Petitioner

Versus

Angappan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed in I.A.No.405 of 2014 in O.S.No.129 of 2014 on the file of the Subordinate Judge, Panruti, dated 23.11.2015.

For Petitioner : Mrs.M.E.V.Thulasi
For Respondents : No appearance

ORDER

The petitioner filed a suit in O.S.No.129 of 2014 before the Subordinate Court, Panruti, against the respondent, on the strength of a promissory note.

2. The suit was contested by the respondent by filing written statement wherein a contention was taken denying the execution of the promissory note.

3. The respondent during the currency of the suit filed an application in I.A.No.405 of 2014 for expert opinion. The application was allowed by the Trial Court notwithstanding the objection raised by the petitioner that contemporaneous documents were not produced for comparison. The said order is under challenge in this Civil Revision Petition.

4. The learned counsel for the petitioner contended that the petitioner is not against sending the document for expert opinion. According to the learned counsel, the objection is only with regard to the examination of the document dated 18.11.2011, in comparison with the signature found in the document dated 05.07.1993. The learned counsel further contended that there are no contemporaneous documents produced before the Trial Court.

5. None appears on behalf of the respondent in spite of printing his name in the cause list after service.

6. The execution of the promissory note was specifically denied by the respondent. The respondent filed the application in I.A.No.405 of 2014 before the Trial Court for sending the document for expert opinion. The Trial Court allowed the application.

7. There is no question of comparing the signatures found in the document dated 18.11.2011, with reference to the document dated 05.06.1993. The Trial Court ought to have directed the respondent to produce contemporaneous documents. I am therefore of the view that the order dated 23.11.2015 is liable to be set aside.

8. In the result, the order dated 23.11.2015 in I.A.No.405 of 2014 is set aside. The application in I.A.No.405 of 2014 is restored to file.

9. The learned Trial Judge is directed to call upon the respondent to produce the contemporaneous documents for comparison of signatures. In case, there are no documents produced

by the respondent, liberty should be given to the petitioner to produce the contemporaneous documents, if any.

10. The learned Trial Judge is directed to take a decision one way or the other taking into account the documents produced by the parties.

11. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

17.11.2016

TK

To

The Subordinate Judge
Panruti.

K.K.SASIDHARAN, J.

TK

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