



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (PD) (MD) No.1491 of 2016

and

C.M.P (MD) No.7263 of 2016

Palpandian

..Petitioner

-vs-

Patric Josuva

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 09.04.2016 passed in I.A.No.583 of 2015 in O.S.No.37 of 2013 on the file of the Sub Court, Ambasamudram.

For Petitioner : Mr.G.Karnan

ORDER

This revision is directed against the order of the Sub Judge, Ambasamudram, passed in I.A.No.583 of 2015 in O.S.No.37 of 2013.

2. The respondent filed the suit in O.S.No.37 of 2013 before the Sub Court, Ambasamudram against the petitioner for recovery of Rs.2,42,733/-, based on the promissory notes dated 27.06.2011. The suit is being contested by the petitioner/defendant by filing written statement. After commencement of trial and after marking of promissory notes as Ex.A1, the petitioner filed an application in I.A.No.583 of 2015 to eschew Ex.A.1 from the evidence by contending that it is not a promissory note in terms of section 4 of the Negotiable Instruments Act. The learned Sub Judge, Ambasamudram, dismissed the application observing that Ex.A.1 cannot be treated as a pro-note, but it can be relied on for evidencing the earlier loan transaction, if any, between the parties and the evidentiary value of Ex.A.1 could be decided after the trial.

3. The learned counsel for the petitioner would submit that neither in the promissory notes nor in the plaint, it is



specifically mentioned that the promissory note was executed on 27.06.2011 for the earlier borrowal and commencement of the trial is without any basis and therefore, he prays to set aside the impugned order.

4. The trial Court, placing reliance on the Judgment reported in **1976(1) MLJ 160** (Sivapackiathammal and others vs. Thangappa Nadar), held that the suit lies on the debt and the evidentiary value of Ex.P.1 shall be decided after conclusion of the trial and rightly dismissed the application.

5. In my considered view, there is no merits in the civil revision petition. Hence, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Ambasamudram.

+ 1 CC TO Mr.G.KARNAN, ADVOCATE IN SR No. 40987

SKN
TE/SKS-RR : 23/09/2016 : 2P/3C

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