



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

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C.R.P(MD)No.206 of 2016 (PD)

and

C.M.P(MD)No.879 of 2016

Christilda Jasmine

.. Petitioner

Vs.

A.Nixon Gold Robert Singh

.. Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order, dated 08.12.2015 passed in I.A.No.698 of 2014 in O.S.No.255 of 2012, on the file of the Principal District Munsif Court, Nagercoil and thereby allow the Civil Revision Petition.

For Petitioners : Mr.R.Nandakumar

For Respondent : Mr.S.Subbiah

ORDER

The petitioner is the defendant. The respondent is the plaintiff. The respondent filed suit in O.S.No.255 of 2012, on the file of the Principal District Munsif, Nagercoil, for recovery of money based on the promissory note. The petitioner filed written statement and denied the execution of promissory note and stated that she never borrowed money. In the circumstances, she filed I.A.No.698 of 2014 to send the documents Ex.A1 and Ex.A4 to the handwriting expert for the comparison of signature. According to the petitioner, signature in Ex.A1 is forged one and she has not signed in Ex.A1 promissory note.

2. The respondent filed counter affidavit and resisted the same. The respondent stated that the petitioner filed I.A.No.313 of 2014 for a direction to the respondent/plaintiff to produce the original of Ex.A4. The said application was dismissed on 10.06.2014 holding that original Ex.A4 is in possession of petitioner/defendant. Ex.A1 is dated 2.5.2009, whereas the Ex.A4 is dated 02.05.2006. The petitioner has not produced any contemporaneous signature, which alone can be compared with disputed signature. The learned Judge observed that the petitioner has disputed her signature in Ex.A1, it is just and necessary to obtain opinion of handwriting expert. The learned Judge after considering the facts and materials on record, dismissed the application on the ground that signature in Ex.A4/certified copy of the sale deed, only half of petitioner's signature. Only, the first half of the signature of the petitioner, i.e., 'Christilda



Jasmine' is visible. The latter half of the signature 'S.Jasmine' could not be seen and petitioner has not produced any admitted contemporaneous document containing her admitted signature. Against the said order of dismissal, dated 08.12.2015, the petitioner has filed the present Civil Revision Petition.

3.The learned counsel for the petitioner contended that the learned Judge failed to consider the scope of Section 45 of Evidence Act and on erroneous reason dismissed the application. The consistent case of the petitioner is that the signature in Ex.A1 is forged signature. The learned Judge is not correct in stating that full signature of the petitioner is not found in Ex.A4. The full signature of petitioner is found in most of the pages, only in certain pages last portion of the petitioner's signature is not found.

4.I have heard Mr.R.Nandakumar, learned counsel appearing for the petitioners and Mr.S.Subbiah, learned counsel appearing for the respondent and also carefully perused the entire materials on record.

5.From the available records, it is seen that, petitioner is seeking expert opinion with regard to disputed signature in Ex.A1 with admitted signature in Ex.A4. Ex.A4 is certified copy of sale deed, dated 02.05.2006. The said sale deed is Xerox copy and signature found in Ex.A4 is only a Xerox copy. Further, some of the pages full signature of the petitioner is not visible. From the judgment relied on by the counsel for the parties, it is seen that:-

i)when the signature in a document is disputed, expert opinion with regard to the same has to be obtained to decide the issue.

ii) A contemporary document containing admitted signature must be sent for comparison with disputed signature.

Iii) if Thump impression is found in the disputed document as well as admitted document expert opinion can be obtained with regard to Thump impression only.

iv) an application seeking handwriting expert opinion cannot be dismissed on the ground of delay alone. In the present case, the petitioner has not produced any contemporaneous document for comparison.

v)In the sale deed, Ex.A4 Thump impression of the petitioner is found, but in Ex.A1 promissory note, no Thump impression is found.

In the circumstances, the learned Judge has considered all these facts and dismissed the applications filed by the petitioner. There is no illegality or irregularity warranting interference by this Court.

<https://hcservices.ecourt.gov.in/services>
6.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed. It is open to the petitioner to renew the application



3

for obtaining handwriting expert by producing admitted contemporary signature for the purpose of Ex.A1.

Sd/
Assistant Registrar

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/True Copy/

Sub Assistant Registrar

To
The Principal District Munsif Court,
Nagercoil.

+1cc to R.Nandakumar, Advocte in Sr.No.12165
+1cc to S.Subbiah, Advocate in Sr.No.11956

CN/sks-sk/15.03.2016/3P-4C

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