

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 26.02.2016****CORAM:****THE HONOURABLE MS. JUSTICE V.M.VELUMANI****C.R.P. PD. (MD)No.450 of 2016**

R.Hariparasad

... Petitioner

Vs.

A.Devadhas

... Respondent

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 22.12.2015 passed by the learned Subordinate Judge, Padmanabhapuram, made in I.A.No.264 of 2015 in O.S.No.197 of 2010.

For Petitioner

: Mr.K.N.Thambi

JUDGMENT

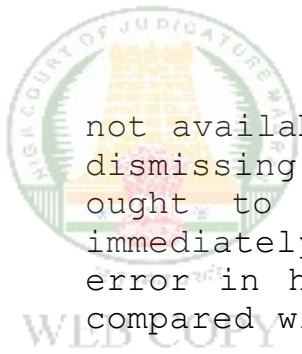
The petitioner is the defendant and the respondent is the plaintiff in O.S.No.197 of 2010 on the file of the Sub Court, Padmanabhapuram. The respondent filed the suit in O.S.No.197 of 2010 for recovery of money based on the promissory note.

2.The petitioner / respondent in his written statement denied the execution of the promissory note. The petitioner filed I.A.No.264 of 2015 for a direction to his employer to produce the document mentioned therein and sending the same to the Forensic Expert's opinion for comparing the admitted signature with disputed signature in the promissory note.

3.The respondent resisted the same. According to the respondent, the application filed by the petitioner is belated one and the same has been filed only to drag on the proceedings. The petitioner filed I.A.Nos.105 and 106 of 2013 for production of certain documents, which were dismissed. The petitioner did not take any further legal proceedings.

4.The learned Judge by the order dated 22.12.2015 considering all the facts and materials on record dismissed the applications. Against which, the petitioner has come out with the present Civil Revision petition.

5.The learned counsel for the petitioner submitted that the learned Judge was error in dismissing the application on the ground that the application is filed only to drag on the proceedings. The earlier application filed for production of documents were dismissed on the ground that those documents were



not available with the respondent. The learned Judge was error in dismissing the petition on the ground of delay. The learned Judge ought to have seen that the petitioner filed an application immediately after examination of D.W.1. The learned Judge was error in holding that the admitted signature in Vakalat would be compared with the disputed signature in promissory note.

6.The learned counsel for the petitioner relied on a decision reported in **2006(3) CTC 39 (Central Bank of India Vs. Antony Hardware Mart and another)** wherein the this Court has held as follows:

"9. It is settled law that the disputed signature can be compared with admitted signature, which were contemporaneous and not with the admitted signatures obtained subsequent to the date of the disputed signature. By lapse of time, there may be some difference in the signature of a person."

7.Heard the learned counsel appearing for the petitioner.

8.From the records it is seen that the petitioner filed the written statement on 08.02.2011 denying the execution of the promissory note and stated that the signature is a forged one. The petitioner did not take any steps at the time for comparing the admitted signature with disputed signature. Similarly earlier application filed by the petitioner in the year 2013 was dismissed on the ground that the documents called for were not available. Thereafter, the petitioner did not take any steps to call for the records, which he is now seeking to be produced by his employer. The respondent has examined himself as P.W.1 and witnesses to the promissory note as P.W.2 and 3. The petitioner also let in evidence. The judgment relied on by the learned counsel for the petitioner is not applicable to the facts of the present case.

9.In the circumstances the learned Judge accepted the contention of the learned counsel for the respondent that the application filed only to drag on the proceedings and rightly rejected the contention of the petitioner and dismissed the application in I.A.No.264 of 2015. I do not find any error or infirmity in the order passed by the learned Subordinate Judge, Padmanabhapuram. Accordingly, the Civil Revision Petition is dismissed. No costs.

Sd/
Assistant Registrar (AE)

/True Copy/



To

1. The Subordinate Judge,
Padmanabhapuram.

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+1cc to N.K.Thampi, Advocate in Sr.No.11422.

CN/AN-MP/4.4.2016/3P-3C

C.R.P.PD(MD) No.450 of 2016

26.02.2016