

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1154 of 2017 &

C.M.P.No.5512 of 2017

1.Thangam

2.Kannan

... Petitioners

v.

Canara Bank

Namakkal Branch

Represented by tis Power of Attorney Agent &

Senior Manager Mr.R.Kalyana Krishnan

D.No.127, P.S.K.Tower

Salem Road,Namakkal Town

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 09.11.2016 made in I.A. No.1341 of 2015 in O.S. No.319 of 2010 on the file of Subordinate Judge's Court at Namakkal.

For Petitioner : Mr.T.L.Thirumalaisamy

ORDER

Challenging the fair and final order passed in I.A. No.1341 of 2015 in O.S. No.319 of 2010 on the file of Subordinate Court, Namakkal, the

defendants 3 and 4 have filed the above Civil Revision Petition.

2. The respondent-plaintiff filed the suit in O.S.No.319 of 2010 for recovery of money. The defendants filed their written statement and are contesting the suit.

3. It is pertinent to note that the suit was originally filed in the year 2006 and the same was renumbered in the year 2010. After a lapse of nearly 10 years, the defendants 3 and 4 took out an application in I.A.No.1341 of 2015 to send the deed of mortgage to the Forensic Science Department for comparison of the signature. The plaintiff filed their counter and opposed the application.

4. The Trial Court, taking into consideration the case of both the parties, dismissed the application finding that the signature found in the deed of mortgage can be compared by the court itself under section 73 of the Indian Evidence Act.

5. When the Trial Court itself come to the conclusion that the signature can be compared by the court itself, I do not find any reason to interfere with the order passed by the Trial Court. That apart, the present

application has been filed after a lapse of nearly 10 years. The petitioners-defendants 3 and 4 have not given any reason for not filing the application at the earliest point of time. The defendants having kept quiet for nearly 10 years, have come forward to file this application for comparison of the signature, which was rightly dismissed by the Trial Court.

6. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the Trial Court itself has stated that the disputed signature can be compared by the Trial Court itself under section 73 of the Indian Evidence Act, the Trial Court shall give a finding with regard to the disputed signature found in the deed of mortgage at the time of deciding the suit.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2017

Index : Yes/No
Rj

To
The Subordinate Court
Namakkal

M. DURAISWAMY,J.,

Rj

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