

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.200 & 201 of 2014
& M.P.Nos.1,1 of 2014

Durai @ K.Govindaraj

.. Petitioner in
both CRPs.

Vs.

S.G.Shanmuganandam

.. Respondent in
C.R.P.No.200 of 2014

S.C.Gopal

.. Respondent in
C.R.P.No.201 of 2014

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 30.07.2013 made in I.A.Nos.337 and 338 of 2011 in O.S.Nos.6 and 7 of 2010 respectively on the file of the learned Subordinate Judge, Bhavani.

For Petitioner : Mr.T.M.Hariharan

COMMON ORDER

Civil Revision Petitions have been filed against the fair and

decreetal order dated 30.07.2013 made in I.A.Nos.337 and 338 of 2011 in O.S.Nos.6 and 7 of 2010 respectively on the file of the learned Subordinate Judge, Bhavani.

2. The issue involved in both the civil revision petitions is one and the same and hence, the revision petitions are disposed of by this common order.

3. The petitioner in these civil revision petitions are defendant, the respondent in C.R.P.No.200 of 2014 is the plaintiff in O.S.No.6 of 2010 and the respondent in C.R.P.No.201 of 2014 is the plaintiff in O.S.No.7 of 2010. The respondents filed the above suits for directing the petitioner to pay them a sum of Rs.3,95,333/- and Rs.3,18,000/- respectively, with subsequent interest at the rate of 24% per annum from the date of suit till realization of entire amount. The respondents filed the suits for recovery of money based on the promissory notes. The petitioner filed written statement on 31.05.2010 in both the suits and is contesting the suit. The trial commenced in both the suits. The respondents examined themselves as P.W.1 and on the memo filed by the petitioner, other two witnesses were also examined. The petitioner

filed I.A.No.337 of 2011 in O.S.No.6 of 2010 and I.A.No.338 of 2011 in O.S.No.7 of 2010 for obtaining an expert's opinion with regard to age of the ink and age of the paper in the suit promissory notes.

4. According to the petitioner, promissory notes in both the suits are fabricated one and only when the age of the ink and papers of the promissory notes are ascertained by an expert's opinion, the petitioner will be in a position to cross examine the witnesses and prove his case.

5. The respondents filed counter affidavits and opposed the averments made in both the applications stating that the applications are filed only to drag on the proceedings. Petitioner has taken ten adjournments to cross examine the respondents' side witnesses and took five adjournments to settle the matter. Subsequently, he did not settle the amount and took eleven adjournments for cross examination of P.W.1 to P.W.3. At this stage, the petitioner filed the present applications only to drag on the proceedings and prayed for the dismissal of both the applications.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed both the applications holding that as per the communication received from the Central Forensic Science Laboratory, Hyderabad, there is no expert available in the said Laboratory also to offer any opinion regarding the age of the ink.

7. Against the order of dismissal dated 30.07.2013 made in I.A.Nos.337 and 338 of 2011, the civil revision petitions are filed by the petitioner/defendant.

8. Heard the learned counsel for the petitioner and perused the materials available on record.

9. The contention of the learned counsel for the petitioner is that the promissory notes are fabricated one and only by the opinion of handwriting expert with regard to the age of the ink and paper, the petitioner will be able to prove his case. The learned Judge has not properly appreciated the judgment relied on by the learned counsel for the petitioner reported in **2013 (5) M.L.J. 349**

(Nallathambi (deceased) and others v. Nallasami) and misinterpreted the judgement relied upon by him. The following portion is extracted from the above decision:

“.. .. From the above fax message from the Central Forensic Science Laboratory, Hyderabad, it is crystal clear that there is no expert available in the said Laboratory also to offer any opinion regarding the age of the ink.”

The above said contention of the learned counsel for the petitioner has no force. In view of the same, the applications filed by the petitioner are devoid of merits.

10. The learned Judge considering all the above facts, rightly dismissed the applications by giving cogent and valid reasons. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 30.07.2013.

11. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

01.06.2017

Index : Yes/No

dm/kj

V.M.VELUMANI, J.

dm/kj

To

The Subordinate Judge,
Bhavani, Erode District.

C.R.P.(PD)Nos.200 & 201 of 2014
& M.P.Nos.1,1 of 2014

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