

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.240 of 2014
& M.P.No.1 of 2014

1.Anbarasu
2.T.Kalimuthu

.. Petitioners

Vs.

Ravi @ Pandiyan

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 31.10.2012 passed in I.A.No.360 of 2012 in O.S.No.108 of 2009 on the file of the Subordinate Court, Attur.

For Petitioners : Mr.V.Lakshminarayanan

For Respondent : No Appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 31.10.2012 made in I.A.No.360 of 2012 in O.S.No.108 of 2009 on the file of the Subordinate Court, Attur.

2. The petitioners are the defendants and respondent is the plaintiff in O.S.No.108 of 2009 on the file of the Subordinate Court, Attur. The respondent filed the said suit for recovery of money based on the promissory note. The petitioners filed written statement on 10.08.2010 denying the execution of the suit promissory note. Trial commenced and the respondent filed proof affidavit on 07.12.2011. At that stage, the petitioners filed I.A.No.36 of 2012 to receive the additional written statement and the same was allowed. The petitioners filed additional written statement on 03.04.2012. After that, the petitioners filed the present application in I.A.No.360 of 2012 for sending the suit promissory note to handwriting expert to get opinion with regard to insertion in the promissory note i.e., '00' was added after Rs.20,000/- to make it appears as Rs.2,00,000/- and added 'a' between Ravi alias Pandian.

3. The respondent filed counter affidavit and denied all the averments mentioned in the affidavit and submitted that to prove the alleged insertion, it need not be sent to the handwriting expert. The petitioners filed present application only to drag on the proceedings, after taking number of adjournments for cross examination of P.W.1 and prayed for dismissal of the application.

4. The learned Judge, considering all the averments made in the affidavit, counter affidavit and materials available on record, came to the conclusion that whether insertion has been made in the promissory note or not can be decided by the Court after appreciating the evidence let in by the parties and at the stage of cross examination of P.W.1, it is not necessary to send the document to handwriting expert to get his opinion and dismissed the application.

5. Against the said order of dismissal dated 31.10.2012 made in I.A.No.360 of 2012, the present Civil Revision Petition is filed by the petitioners/defendants.

6. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice was served on the respondent and his name was printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

7. According to the petitioners, the insertions were made in the promissory note to show that as though Ravi alias Pandian borrowed Rs.2,00,000/-. The claim of the petitioners is that '00' is added after Rs.'20,000/-' and 'a' is added between Ravi and Pandian. The question to be decided is whether any insertion as claimed by the petitioners is made or not in the promissory note. For that purpose, as held by the learned Judge, the suit promissory note need not be sent to the handwriting expert.

8. The learned Judge himself can verify and appreciate the evidence let in by the parties and decide whether there is any insertion in the promissory note or not. The learned Judge exercised his power properly and dismissed the application by giving cogent

and valid reason. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 31.10.2012.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.11.2017

Index : Yes/No

dm/kj

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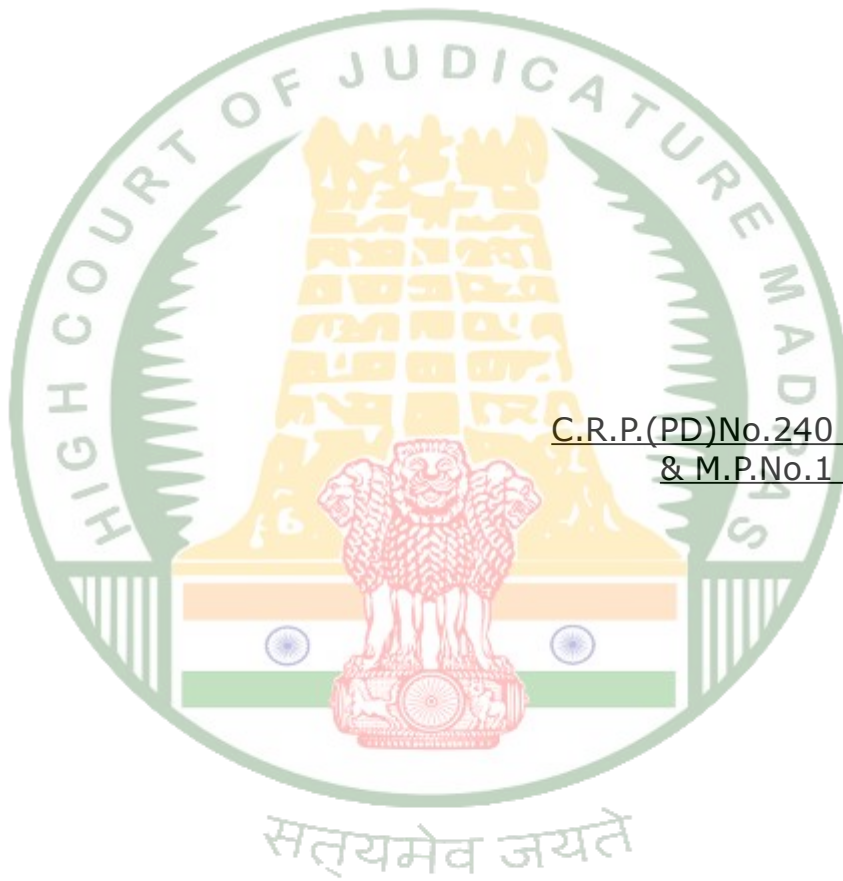
The Subordinate Judge, Attur.



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V.M.VELUMANI, J.

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