

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2546 of 2000

Rajendran

.. Petitioner

Vs.

1.Natarajan

2.Kaliyamurthy

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C, against the judgment and decree dated 24.04.2000 made in S.C.No.18 of 1999 on the file of the Principal District Munsif Court, Mailaduthurai.

For Petitioner :Mr.G.Ethirajulu

For R1 :Mr.G.Vinodhkumar

For R2 :No appearance

ORDER

The Civil Revision Petition is filed against the judgment and decree dated 24.04.2000 made in S.C.No.18 of 1999 on the file of the Principal District Munsif Court, Mailaduthurai.

2. The petitioner is the plaintiff and respondents are the defendants in S.C.No.18 of 1999 for recovery of money against the respondents. According to the petitioner, the respondents 1 and 2 borrowed a sum of Rs.3,500/- on 05.04.1988 and executed a promissory note on the same date promising to repay the amount together with interest at the rate of 24% per annum. Subsequently, they did not pay the amount. The petitioner issued notice dated 23.12.1998 through his advocate. Notice sent to the first respondent was returned with an endorsement as 'no such person'. Notice sent to the second respondent was returned with an endorsement as 'refused'. Hence, the petitioner filed the above suit for recovery of money.

3. The first respondent filed written statement on 14.10.1999 and submitted that he does not know who is the petitioner and denied any borrowings from the petitioner. The respondents 1 and 2 borrowed a sum of Rs.1,500/- from one Gnanasekaran, Krishnaraja Finance and the said Gnanasekaran took signature of the respondents in two blank promissory notes. The amount borrowed by them from Gnanasekaran was repaid and only a meagre amount was due towards interest. The said Gnanasekaran

agreed to return the promissory notes executed by the respondents 1 and 2 on receipt of interest due. But he has filled up the promissory notes and filed the above suit through the petitioner.

4. The learned Judge framed necessary issues.

5. Before the learned Judge, the petitioner examined himself as P.W.1 and examined one Muraliraj as P.W.2 and marked four documents as Exs.P1 to P4. The first respondent himself examined as D.W.1 and did not mark any document.

6. The learned Judge considering the fact that the petitioner could not identify the first respondent in open Court and identified only after pointing out by the advocate, dismissed the suit holding that the respondents have not borrowed any money from the petitioner.

7. Against the said judgment and decree made in S.C.No.18 of 1999, the present civil revision petition is filed by the petitioner/plaintiff.

8. Heard the learned counsel for the petitioner as well as the learned counsel for the first respondent and perused the materials available on record.

9. The learned counsel for the petitioner submitted that the respondents admitted their signature in the promissory notes and therefore, onus is on the respondents to prove that no consideration was received by them. The learned Judge erred in dismissing the suit on the ground that the petitioner could not identify the first respondent, while he was sitting in the Court hall and could not identify the first respondent, when P.W.2 scribe/Muniraj was examined. Both the contentions are without merits. When the respondents admitted signature in the promissory notes, presumption with regard to passing of consideration can be rebutted by the respondents. In the present case, the respondents have stated that they do not know the petitioner and did not borrow any money from the petitioner. The learned Judge considering the fact that the petitioner could not identify the first respondent, who was sitting in the Court hall, accepting the contention of the first respondent that the respondents did not

borrow money from the petitioner, rightly dismissed the suit. There is no illegality or irregularity in the order of the learned trial Judge dated 24.04.2000.

10. In the result, the Civil Revision Petition is dismissed. No costs.

29.08.2017

Index:Yes/No

kj

To

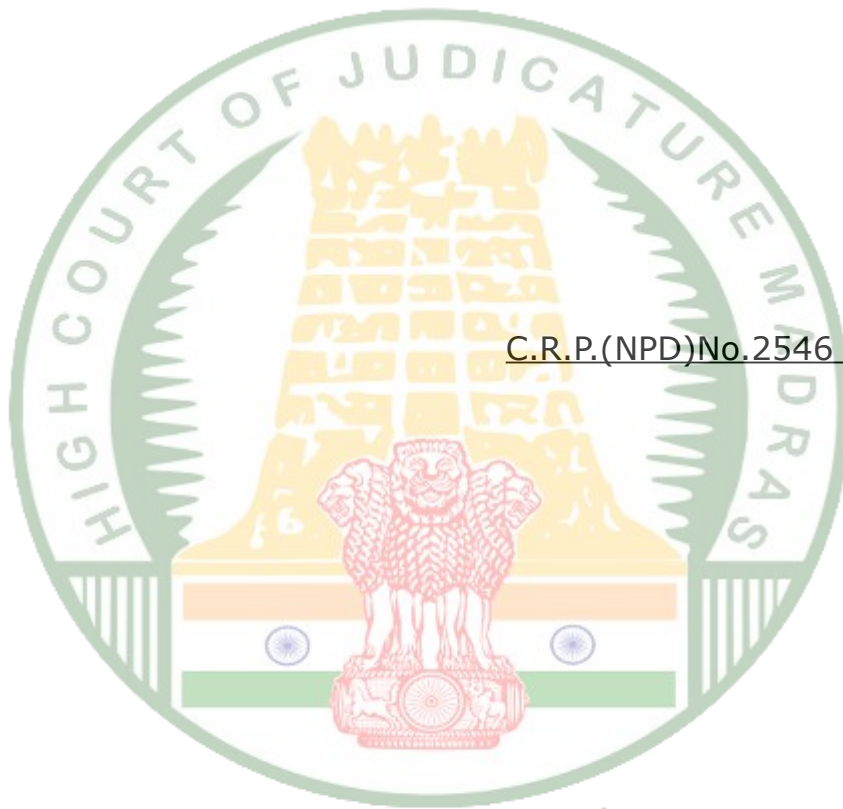
The Principal District Munsif
Mailaduthurai.



WEB COPY

V.M.VELUMANI, J.

kj



C.R.P.(NPD)No.2546 of 2000

सत्यमेव जयते

29.08.2017

WEB COPY