

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

CORAM:

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

CRP(PD)Nos.793 &794 of 2017

and

CMP.Nos.3925 & 3926 of 2017

G.Subramaniam

..Petitioner in both the CRPs

..Vs..

S.Sivasubramaniam

.. Respondent in both the CRPs

Prayer in C.R.P(PD)No.793 of 2017

Civil Revision Petition filed under Article 227 of Constitution of India against the fair order and decreetal orders dated 19.12.2016 in I.A.No.636 of 2016 in O.S.No.211 of 2006 on the file of the Principal Subordinate Judge's Court, Tiruppur.

Prayer in C.R.P(PD)No.793 of 2017

Civil Revision Petition filed under Article 227 of Constitution of India against the fair order and decreetal orders dated 19.12.2016 in I.A.No.637 of 2016 in O.S.No.211 of 2006 on the file of the Principal Subordinate Judge's Court, Tiruppur.

For Petitioner in both the CRPs : Mr.C.R.Prasanan

For Respondent in both the CRPs : Mr.J.Antony Jesus

COMMON ORDER

Civil Revision Petitions have been filed against the fair and decreetal orders dated 19.12.2016 in I.A.Nos.636 & 637 of 2016 in O.S.No.211 of 2006 on the file of the Principal Subordinate Court, Tiruppur.

The issue involved in both the Civil Revision Petitions is one

and the same. Therefore, they are disposed of by this common order.

2. The petitioner in both the Civil Revision Petitions is the defendant and respondent is the plaintiff in O.S.No.211 of 2006 on the file of the Principal Subordinate Judge's Court, Tiruppur.

3. The respondent filed above suit for recovery of a sum of Rs.2,14,900/- together with interest at 18% per annum, based on the promissory note. The petitioner filed written statement in the month of March, 2014 and is contesting the suit. Trial commenced. Respondent examined four witnesses on his behalf and filed two applications in I.A.No.636 of 2016 for a direction to the Joint Sub-Registrar-I, Tiruppur to produce the original registered document with connected signature and thumb impression book of sale deed dated 16.09.1988 under registered Doc.No.3011/1988, before this Court and also direct him to give evidence in respect of the same. I.A.No.637 of 2016 is filed to issue witness summon through court to the petition mentioned witness and also direct him to give evidence in respect of the same.

4. According to the respondent, petitioner filed written statement denying the execution of promissory note and denied his signature in the promissory note. In the circumstances, it is necessary for the respondent to call for the signature of the petitioner in the sale deed

dated 16.09.1988 bearing document No.3011/1998 and connected documents from the office of the Joint Registrar-I, Tiruppur to give evidence. The respondent also filed another application in I.A.No.637 of 2016 under Order 16 Rules 1 and 2 and Section 151 CPC to issue witness summon through Court for production of the document mentioned in the witness summon on the ground that the petitioner was working as a conductor in Tamil Nadu Arasu Transport Corporation, Mettupalayam Road, Coimbatore and his signature in the service record is necessary to compare with the signature in the suit promissory note.

5. The petitioner filed counter affidavit and opposed the said applications. According to the petitioner, the documents called for are not contemporaneous document and only admitted signature in the contemporaneous document can be compared with the disputed signature. The signature found in the document is of the year 1988 or 1994 and cannot be compared with the disputed signature in the promissory note dated 04.09.2003. The respondent has already examined four witnesses including the Bank Officer to show that the signature contained in Ex.A1-promissory note and Ex.A7 are one and the same. Having failed in his attempt, he has filed the present application. Already the petitioner filed a copy of the document of the years 2002 and 2004 and petitioner is ready to provide a certified copy of those documents for comparison and obtaining opinion of expert.

6. The learned Trial Judge, considered the averments in the affidavit, counter affidavit and materials on record and allowed the application on the ground that the respondent must be given sufficient opportunity to prove his case as the petitioner has denied the signature in the suit promissory note.

7. Aggrieved against the same, the present Civil Revision Petitions have been filed against the orders dated 19.12.2016 in I.A.Nos.636 & 637 of 2016 in O.S.No.211 of 2006 on the file of the Principal Subordinate Judge's Court, Tiruppur.

8. Heard the learned counsel for the petitioner and learned counsel for the respondent.

9. The learned counsel appearing for the respondent has relied upon the judgment of this Court in the case of ***Chelladurai Vs.Velmurugan*** reported in **2014 (4) CTC 606.**

10. From the materials on record, it is seen that the respondent has filed a suit for recovery of money based on a promissory note dated 04.09.2003. The petitioner has denied the signature in the said

promissory note and contended that the respondent has forged the signature in the promissory note.

11. In view of the denial, by the petitioner the respondent herein has filed two applications for summoning the document which contained admitted signature of the petitioner. It is seen from the materials on record that the sale deed is dated 16.09.1988 and the document sought for I.A.No.637 is of the year 1994 whereas the suit promissory note is dated 04.09.2003. As rightly contended by the learned counsel for the petitioner that admitted signature in contemporaneous documents can only be compared with the disputed signature.

12. The learned Judge has failed to consider the fact that the disputed signature in the promissory note dated 04.09.2003 cannot be compared with the admitted signature of the years 1998 and 1994. Further, the petitioner has filed the document containing his signature in documents of 2002 and 2004. The learned Trial Judge has not given any reason for not comparing the said signature with the said documents with the disputed signature in the promissory note. The only reason given by the learned Trial Judge is that the respondent must be given an opportunity to prove his case is contrary to the well settled judicial pronouncements.

13. In the result, both the Civil Revision Petitions are allowed and both the order dated 19.12.2016 passed in I.A.Nos.636 and 637 of 2016 are set aside. The learned Trial Judge is directed to dispose of the suit, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

It is open to the petitioner and respondent to take steps to compare the signatures in the document filed the petitioner of the years 2002, 2003 and 2004. No costs. Consequently, connected miscellaneous petitions are closed.

14.06.2017

gv/dh

Index :Yes / No
Internet:Yes / No
Speaking Order/Non Speaking Order

V.M.VELUMANI., J.

gv/dh

To

The Principal Subordinate Judge,
Principal Subordinate Court,
Tiruppur.

CRP(PD)Nos.793 &794 of 2017
and
CMP.Nos.3925 & 3926 of 2017

14.06.2017

<http://www.judis.nic.in>