



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(PD) (MD)No.1708 of 2017
and
CMP(MD)No.9337 of 2017

John Jacob Rajan

... Petitioner

vs.

Usha

... Respondent

Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.259 of 2017 in O.S.No.212 of 2014 on the file of the Subordinate Judge, Padmanabhapuram, dated 13.07.2017.

For Petitioner : Mr.C.Sankar Prakash

For Respondent : Mr.K.P.Narayanakumar

ORDER

This revision petition has been filed against the fair and decreetal order made in I.A.No.259 of 2017 in O.S.No.212 of 2014 on the file of the Subordinate Judge, Padmanabhapuram, dated 13.07.2017.

2.Learned counsel for the petitioner would aver that the above interlocutory application has been filed under Order 11 Rule 14 CPC for causing production of certain documents relating to the plaintiff side witnesses namely, PW2 Jervin and PW3 Vijayakumar. The suit is for recovery of money based on promissory note worth Rs.3,50,000/-. The revision petitioner/defendant denied execution and consideration of the promissory note and therefore, he would submit that the respondent/plaintiff is duty bound to prove his signature in the document by sending it to the handwriting expert, but no steps were taken by the respondent/plaintiff to prove the same. It is the case of the petitioner that PW3 admitted that he had no objection to produce admitted signatures to compare the same with the disputed signatures found in the promissory note and PW2 also deposed that he had no objection for comparison of signatures with the admitted documents.



3. The respondent filed counter in the interlocutory application stating that PWs 1 to 3 had categorically admitted that the signatures found in Ex.A1 promissory note were signed by them. Thereafter, the case was posted for defendant's side evidence on 20.04.2017. In the meanwhile, the present application has been filed by the defendant to delay the proceedings. The suit is of the year 2014 and the petitioner filed the present petition only to fill up lacuna.

4. On carefully analysing the arguments of the petitioner and the respondent and upon perusal of the records, it is seen that the entire defence is made on the point that Ex.A1 promissory note was neither executed nor supported by consideration. On the other hand, the petitioner/defendant disputed not only his signature found in Ex.A1 promissory note, but also the signatures of PW2 and PW3 in this case. The evidence of PW2 and PW3 would go to show that they have stood by their signatures found in Ex.A1 promissory note and the petitioner/defendant is the only person disputing the admitted signatures made out by PW2 and PW3. It makes no sense to compare the signatures PW2 and PW3 found in Ex.A1 promissory note. The attestors themselves have admitted their own signatures. Under such circumstances, the Court below held that question of disproving the signatures of PW2 and PW3 will be of no consequence.

5. If the petitioner is really interested to strengthen his defence, he can very well dispute his own signature found in the alleged Ex.A1 promissory note and he can take steps for sending Ex.A1 for the opinion of the handwriting expert by producing a contemporaneous document for comparison of signature which he had not done and seeking the order of this Court for disproving the signatures of PWs 2 and 3 in Ex.A1 would only delay the proceedings.

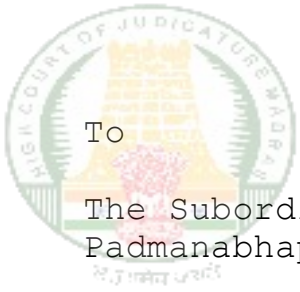
6. For the aforesaid reasons, the order impugned does not call for interference by this Court. If at all the petitioner is aggrieved, it is for him to take steps to send Ex.A1 promissory note to the handwriting expert for comparison of signature and that remedy is always available to him.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

The Subordinate Judge,
Padmanabhapuram.

WEB COPY

+ 1 cc TO Mr.C.Sankar Prakash , Advocate in SR No. 85603

+ 1 cc TO Mr.K.P.Narayanakumar , Advocate in SR No. 85689

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AE/JC/SAR2/22.11.2017/3P/4C

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