



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD).No.1833 of 2017(PD) &
C.M.P. (MD).No.9706 of 2017

A.S.Ganapathy ...Petitioner/Petitioner/Defendant

Vs.

S.Arumugham ...Respondent/Respondent/Plaintiff

Prayer: Petition is filed under Article 227 of the Constitution of India to call for the records relating to the impugned fair and decreetal order, dated 17.06.2017, made in I.A.No.73 of 2017 in O.S.No.194 of 2011 on the file of Additional Sub Court, Tirunelveli and set aside the same and allow this civil revision petition.

For Petitioner : Mr.M.Sankar

ORDER

The petitioner is the defendant and the respondent is the plaintiff. The respondent/plaintiff filed a suit in O.S.No.194 of 2011 against the petitioner/defendant to pay a sum of Rs.2,50,000/- before the Additional Sub Court, Tirunelveli. Pending suit, the petitioner/defendant filed an interlocutory application in I.A.No.73 of 2017 to compare the signature found in Ex.A1/cheque with that of the admitted signature found in vakalat and written statement by a hand writing expert. The learned Trial Judge after hearing both sides, dismissed the said interlocutory application. Aggrieved against the said order, the petitioner/defendant is before this Court.

2. The learned counsel for the petitioner would submit that the suit instituted by the respondent/plaintiff is a second round of litigation and earlier the respondent/plaintiff already filed a criminal case in S.T.C.No.194 of 2009 and the same was dismissed. Therefore, the suit is not maintainable in law. In the above stated position only, the petitioner filed the interlocutory petition to prove that his signature found in Ex.A1 is a forged one by comparing the same with the admitted signature. He would further submit that the Trial Judge without proper appreciation of the case on merit, simply dismissed the application on untenable and flimsy reasons.



3. Admittedly, the suit is filed in the year 2011 and the petitioner/defendant filed the interlocutory petition in the year 2017, i.e. nearly after 6 years, which would go to show that he is not diligent enough in putting forth his case. There is no reason forthcoming from the petitioner for the inordinate delay in filing the said interlocutory application. The act of the petitioner is to procrastinate the proceedings. Moreover, Ex.A1/cheque is dated 23.09.2008 and the petitioner wants to compare the signature found in Ex.A1 with the admitted signature found in written statement which was filed after the institution of the suit. The same is not admitted in law and the learned Trial Judge rightly dismissed the application.

4. When a similar case came up before this Court in C.R.P.(MD). Nos.2424 and 2425 of 2015, dated 04.04.2016 (J.JOSEPH v. MICHAEL & ORS), this Court held that disputed and admitted signature of contemporary period only can be compared by a handwriting expert. It is useful to extract Paragraph 7 of the above-said order hereunder:-

"7. The petitioner seeking permission to obtain opinion from the handwriting expert with regard to the signature in the Ex.A16, dated 17.12.1997 and Ex.B9/Ex.A.15, dated 06.05.1987, with his signature of the year 2015. It is well settled that disputed and admitted signature of contemporary period only can be compared by a handwriting expert, with regard to the genuineness of the disputed signature. As the time passes, the signature of a person will differ and therefore no useful purpose will be served by comparing the signature of the year 1987 and 1997 with the signature of the year 2015."

5. In view of the foregoing reasons and the order referred supra, this Court is of the view that there is no illegality or infirmity in the impugned order and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar.

To

The Additional Subordinate Judge, Tirunelveli.

Order made in
C.R.P.(MD).No.1837 of 2017(PD) &
C.M.P.(MD).No.9706 of 2017
30.10.2017