



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (PD) (MD) No.277 of 2017

and

C.M.P (MD) No.1310 of 2017

V.Kamaraj : Petitioner

vs.

P.Thangaraj : Respondent

PRAYER : Civil Revision Petition is filed under Article 227 Constitution of India, against the order dated 23.11.2016 passed in I.A.No.50 of 2016 in O.S.No.139 of 2014 by Principal Sub Court, Dindigul.

For Petitioner : Mr.S.Anand Chandrasekar
For Respondent : No appearance

O R D E R

The revision petition is directed against the dismissal of I.A.50 of 2016 taken out by the plaintiff under Order 26 Rule 10(A)CPC, for appointing Commissioner for scientific investigation of disputed signature of the respondent in the suit promissory note with his admitted signature found in the Account opening form of Indian Bank.

2.The Trial Court has declined the prayer on the ground that both the documents are not executed contemporaneously.

3.Aggrieved by that, the present revision petition is filed on the ground that the pro-note was executed by the respondent on 09.02.2013 and the Bank account was opened on 25.09.2012. Both the documents have been executed within a period of six months and therefore, they are to be taken as contemporaneous documents.

4.Further, it is contented by the revision petitioner that the Trial Court erred in saying that the respondent has already disputed the signature found in the pro-note and has taken steps for comparison in I.A.205 of 2015. Therefore there is no necessity for the plaintiff to refer some other document for comparison of the disputed signature.



5.It is also contented by the revision petitioner that since this suit has been filed by him, burden of proof is on him and therefore, it is appropriate for him to prove the genuineness of the signature found in the pro-note executed by the respondent which is now been disputed and denied by the respondent.

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6.This Court, after going through the pleadings and the impugned order, finds that this suit is on a promissory note, wherein, the very execution is been disputed by the respondent, alleging that the signature found in the suit pro-note is not of his.

7.Under such circumstances, it is appropriate to give an opportunity to the plaintiff to send the disputed document for comparison with the admitted document executed by the respondent. In this case, the disputed pro-note is dated 09.02.2013, whereas, the admitted application form to open the Bank Account is dated 25.09.2012. Both the documents are almost contemporaneous and executed within a period of six months and there cannot be any difficulty for the experts to compare the above two documents.

Hence this Civil Revision Petition is allowed and the order passed by the Trial Court dated 23.11.2016 in I.A.No.50 of 2016 in O.S.No.139 of 2014 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
The Principal Subordinate Judge,
Dindigul.

+1CC to M/S.Sarvabhauman Associates,SR.No.50021

C.R.P (PD) (MD) No.277 of 2017

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