



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2017

CORAM :

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THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P (NPD) (MD) No. 786 of 2017 and CRP (PD) (MD) No. 760 of 2010
and
M.P (MD) No. 1 of 2010

C.R.P (NPD) (MD) No. 786 of 2017

T. Raja

... Petitioner/Plaintiff

vs.

1. T. Perumalsamy

2. Rengammal

... Respondents/Defendants

Petition filed under Article 227 of the Constitution of India,
against the dock order dated 27.02.2017 passed by the Principal
District Munsif, Dindigul in the memo filed in O.S. No. 199 of 2009.

For Petitioner : Mr. T. Lenin Kumar

For Respondents : Mr. Anand Chandrasekar for
M/s. Sarvabhauman AssociatesC.R.P (PD) (MD) No. 760 of 2010

1. T. Perumalsamy

2. Rengammal

... Petitioners/Defendants/
Petitioners

vs.

T. Raja

... Respondent/Plaintiff/
Respondent

Petition filed under Article 227 of the Constitution of India,
against the fair and decreetal order dated 26.02.2010 passed in
I.A. No. 114/10 in O.S. No. 199/09 on the file of Principal District
Munsif Court, Dindigul.

For Petitioners : Mr. Anand Chandrasekar for
M/s. Sarvabhauman Associates

COMMON ORDER

Both the revision petitions arising out of common fact that who has to seek the indulgence of the Court to get the expert opinion regarding the disputed pro note vis-a-vis admitted document.

2. Earlier, the defendants filed an application which was dismissed and aggrieved by that, CRP(MD)No.760 of 2010 was filed before this Court under Article 227 of the Constitution of India. Pending that revision, the Trial Court has dismissed the suit and the matter was taken up in appeal by the plaintiff and the appellate Court has remanded back the matter. At that juncture, the plaintiff has filed a memo requesting the Trial Court to direct the defendants to send the admitted document and disputed document for opinion of handwriting expert contending that the burden of proof lies with the defendants.

3. This memo dated 15.02.2017 returned by the Trial Court recording that the plaintiff has preferred appeal and got the matter remanded back. Hence, the plaintiff has to take steps for expert opinion. Aggrieved by the said return, CRP(MD)No.786 of 2017 is filed.

4. The first principle of law regarding proof is that the burden of proof is on the person who pleads the fact. Here is a case, based on a pro note alleged to have been executed by the defendants, the suit has been filed. Hence, the burden of proof is on the plaintiff to prove the execution of the pro note, more so, when the signature is disputed by the defendants. Therefore, it is for the plaintiff to stand or fall based on the evidence he likely to adduce before the Trial Court. If the plaintiff is interested to substantiate his case of execution of pro note by the defendants, the burden is on him to prove the said fact for which, he has to take steps for getting expert opinion about the genuineness of the signature found in the plaint pro note.

5. Therefore, CRP(MD)No.760 of 2010 is dismissed. CRP(MD)No.786 of 2017 is disposed of with the direction giving liberty to the plaintiff to take necessary steps for comparing the disputed document with any of the admitted document available. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True copy/



To

The Principal District Munsif,
Dindigul.

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+1 cc to Mr.T.Lenin Kumar , Advocate in SR.No. 62870

nbi/Is

AE/SV/05.05.2017/3P/3C

C.R.P (NPD) (MD) No.786 of 2017
and CRP (PD) (MD) No.760 of 2010
19.04.2017