

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2314 of 2014
& M.P.No.1 of 2014

V.C.Ravichandran

.. Petitioner

Vs.

1.K.Nirmala Kuppusamy
2.K.Sivakumar
3.K.Ramya
4.K.Lavanya
5.K.Sivakami
6.K.Durga

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 06.08.2013 made in I.A.No.185 of 2013 in O.S.No.382 of 2010 on the file of the II Additional Subordinate Judge, Salem.

For Petitioner : Mr.P.Jagadeesan

For R1, R3, R4 to R6 : No appearance

For R2 : No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 06.08.2013 made in I.A.No.185 of 2013 in

O.S.No.382 of 2010 on the file of the II Additional Subordinate Judge, Salem.

2.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondents 1 and 3 to 6 and their names are printed in the cause list, there is no representation either in person or through counsel.

3.The petitioner is plaintiff and respondents are the defendant in O.S.No.382 of 2010 on the file of the II Additional Subordinate Judge, Salem. The petitioner filed the said suit against the respondents for recovery of money based on three promissory notes dated 01.09.2003, 01.11.2003 and 13.04.2004. The second respondent filed written statement on 22.08.2006 and is contesting the suit. In the written statement, the respondents have denied the signature of late T.K.Kuppusamy in the said promissory notes as that of late T.K.Kuppusamy. The respondents filed I.A.No.873 of 2007 for appointment of an Advocate Commissioner to take custody of original promissory notes along with original documents which contains the signature of late T.K.Kuppusamy for producing before the Director of Forensic Sciences Laboratory, Chennai. The respondents have not produced any documents containing the

signature of late T.K.Kuppusamy. The petitioner filed application I.A.No.185 of 2013 on the ground that signature in the said documents are not that of late T.K.Kuppusamy. The application is filed under Rule 74 of Civil Rules of Practice to send for the document executed by late T.K.Kuppusamy on the file of the Judicial Magistrate Court No.I, Salem in C.C.No.41 of 2000.

4.The respondents filed counter affidavit and contended that the petitioner has not furnished the date of the document which has to be sent for. The date of promissory notes and the date of document to be compared must be contemporaneous documents and prayed for dismissal of the application.

5.The learned Judge, considering the fact that the petitioner has not furnished the date of document, dismissed the application filed by the petitioner under Rule 74 of Civil Rules of Practice.

6.At the time of hearing the Civil Revision Petition, the learned counsel for the petitioner produced certified xerox copy of the Power of Attorney dated 04.12.1999 obtained from Court of Judicial Magistrate No.I, Salem. The said Power of Attorney is dated 04.12.1999, whereas the three promissory notes are dated

01.09.2003, 01.11.2003 and 13.04.2004. The Power of Attorney is not contemporaneous document and therefore, the same cannot be sent for comparison. In the circumstances, the present application filed by the petitioner is devoid of merits. The learned Judge has considered the above facts and dismissed the application. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 06.08.2013 made in I.A.No.185 of 2013 in O.S.No.382 of 2010.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.01.2018

Internet: Yes/No
Index: Yes/No
gsa

To

The II Additional Subordinate Judge,
Salem.

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V.M.VELUMANI,J.

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