

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4564 to 4566 of 2014
and M.P.Nos.1,1,1 of 2014

Kumar

.. Petitioner in
C.R.P.Nos.4564 and 4565 of 2014

Regina

.. Petitioner in
C.R.P.No.4566 of 2014

Vs.

State Bank of India
Represented by its Branch Manager
Agriculture Development Branch
Brindavan, Pondicherry.

.. Respondent
in all three CRPs.

सत्यमेव जयते

Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decretal order dated 17.07.2014 made in I.A.No.28 of 2014 in O.S.No.136 of 2012, I.A.No.46 of 2014 in O.S.No.118 of 2012 and I.A.No.131 of 2014 in O.S.No.160 of 2012 on the file of the Additional Subordinate Court, Tindivanam.

In all C.R.Ps.

For Petitioner : No appearance

For Respondent : Mr.A.V.Arun

COMMON ORDER

Civil Revision Petitions are filed against the fair and decretal order dated 17.07.2014 made in I.A.No.28 of 2014 in O.S.No.136 of 2012, I.A.No.46 of 2014 in O.S.No.118 of 2012 and I.A.No.131 of 2014 in O.S.No.160 of 2012 on the file of the Additional Subordinate Court, Tindivanam.

2.In all the three Civil Revision Petitions, the issues and respondent are one and the same and hence, they are disposed of by this common order.

3.The petitioners are defendants and respondent is plaintiff in O.S.Nos.136, 118 and 160 of 2012 on the file of the Additional Subordinate Court, Tindivanam. The respondent filed the said suits for recovery of money based on the mortgage. The petitioners filed written statements on 18.03.2013, 13.03.2013 and 13.03.2013 in the three suits respectively and are contesting the suits. The trial

commenced and the respondent let in evidence and marked revival letters executed by the petitioners as Exs.A7 and A8 in O.S.No.136 of 2012, Exs.A1, A8 and A9 in O.S.No.118 of 2012 and Exs.A2 to A5 in O.S.No.160 of 2012. The petitioner in C.R.P.Nos.4564 and 4565 of 2014 filed I.A.Nos.28 and 46 of 2014 and the petitioner in C.R.P.No.4566 of 2014 filed I.A.No.131 of 2014 under Order XXVI Rule 10A C.P.C. for appointment of an Advocate Commissioner to send the disputed signatures of the petitioners in the revival letters marked as Exhibits to compare with their admitted signatures in the admitted documents and for getting opinion with regard to the genuineness of the signatures in the revival letters.

4.According to the petitioners, they did not execute the revival letters and respondent has forged the signatures of the petitioners in the said documents. The petitioners denied the signatures in the revival letters even in their written statements. For the above reason, the petitioners have filed the present applications.

5.The respondent Bank filed counter and contended that as per the Bankers Book of Evidence Act, there is a presumption with regard to the documents produced by the Bank are to be taken into

consideration. The petitioners have executed the revival letters and the present applications are filed only to drag on the proceedings. A party may sign in a different manner and seek for comparison of signature and this sort of practice should not be allowed. The Court has power under Section 73 of the Indian Evidence Act to compare the disputed signature with the admitted signature and come to the conclusion. The petitioners have not stated with which document, the signatures in the revival letters are to be compared and prayed for dismissal of the applications.

6.The learned Judge considering the averments made in the affidavit, counter and materials available on record, dismissed the applications holding that the Court has power under Section 73 of the Indian Evidence Act to compare the disputed signature with the admitted signature and come to the conclusion. The learned Judge has also held that the petitioners have not specifically stated that they have affixed thumb impression in their loan documents and the respondent forged their thumb impressions in the revival letters.

7.Against the said order of dismissal dated 17.07.2014 made in I.A.No.28 of 2014 in O.S.No.136 of 2012, I.A.No.46 of 2014 in

O.S.No.118 of 2012 and I.A.No.131 of 2014 in O.S.No.160 of 2012, the present three Civil Revision Petitions are filed by the petitioners.

8. When the Civil Revision Petitions were taken up for hearing on 27.03.2018, at the request of the learned counsel for the petitioners, the matter was posted today. When the Civil Revision Petitions were taken up for hearing today at 10.30 a.m., there was no representation on behalf of the petitioners and hence, it was passed over. Again when the matter is called at 12.00 p.m., there is no representation on behalf of the petitioners.

9. Heard the learned counsel for the respondent and perused the materials available on record.

10. The petitioners in their grounds of Civil Revision Petitions have raised the contentions that the learned Judge has failed to consider that the comparison of disputed signature in the revival letters with other admitted documents is necessary to disprove the case of the respondent. The learned Judge without properly appreciating the contention of the petitioners dismissed the applications in a mechanical manner. The learned Judge has

dismissed the applications contrary to the provisions of the Act. These contentions raised in the grounds of Civil Revision Petitions are without merits.

11. From the impugned order of the learned Judge, it is seen that the petitioners have stated in their written statements that at the time of getting loan, they have signed in the printed forms and the respondent has fabricated the same as revival letters. This shows that the petitioners have admitted their signatures in the revival letters, but claimed that the respondent has fabricated the Blank printed forms as revival letters. Further, the petitioners have not stated with which admitted signatures in the documents filed by the respondent are to be compared with the disputed signatures in the revival letters. According to the petitioners, they have disputed the execution of revival letters in the written statements filed on 18.03.2013, 13.03.2013 and 13.03.2013. They have not taken immediate steps for comparison of disputed signatures with the admitted signatures and they have not produced any contemporaneous document containing admitted signature to be compared with the disputed signature. As per Section 73 of the Indian Evidence Act, the Court has power to compare the disputed

signature with the admitted signature and come to a conclusion with regard to the genuineness of the disputed signature.

12.For the above reason and the reason that the petitioners have approached the Court belatedly after commencement of trial, all the three Civil Revision Petitions are liable to be dismissed as devoid of merits and they are hereby dismissed.

13.In the result, all the three Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

28.03.2018

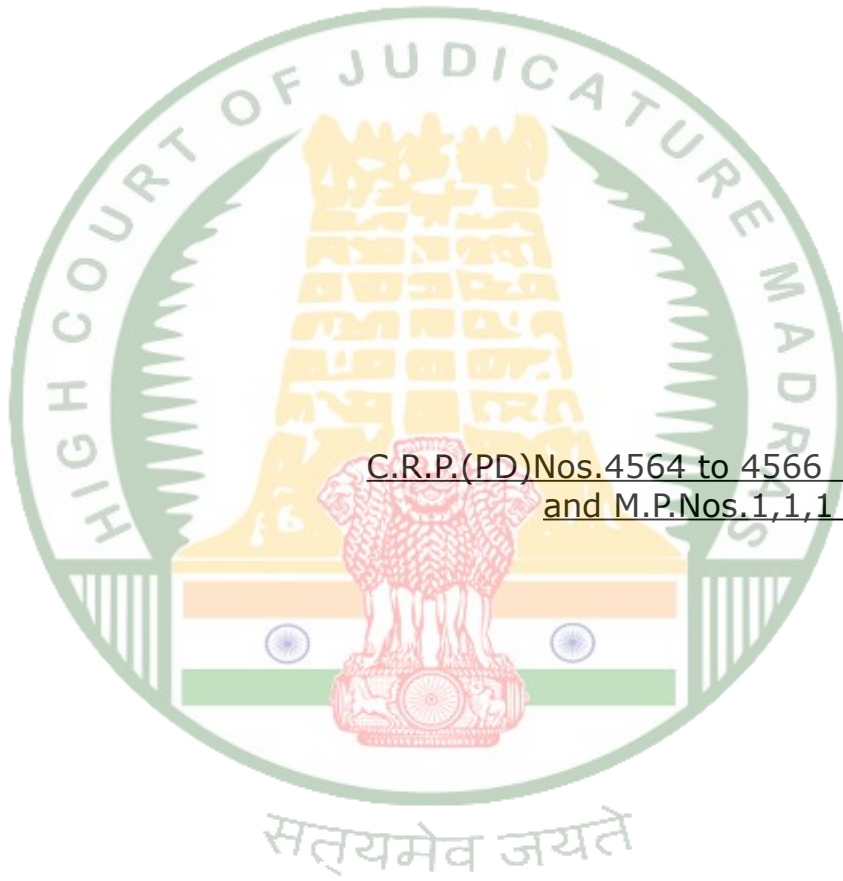
Index:Yes/No
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To
The Additional Subordinate Judge, Tindivanam.

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V.M.VELUMANI,J.

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C.R.P.(PD)Nos.4564 to 4566 of 2014
and M.P.Nos.1,1,1 of 2014

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