IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.902 of 2015
and M.P.No.1 of 2015

M.Palani .. Petitioner

Vs.

Purushothaman .. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 17.09.2014 made in I.A.No.547 of 2013 in O.S.No.6 of 2010 on the file of the Subordinate Court, Madurantagam.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.M.R.Thangavel

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 17.09.2014 made in I.A.No.547 of 2013 in O.S.No.6 of 2010 on the file of the Subordinate Court, Madurantagam.

2. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

3. The petitioner is defendant and respondent is plaintiff in O.S.No.6 of 2010 on the file of the Subordinate Court, Madurantagam. The respondent filed said suit for recovery of money based on the promissory note alleged to have been executed by the petitioner. The petitioner filed written statement on 12.01.2011 and denied borrowal of money from the respondent and execution of promissory note. The petitioner filed I.A.No.547 of 2013 under Section 45 of Indian Evidence Act, Order XXVI Rule 9 and Section 151 C.P.C. to send for the suit promissory note, to get expert opinion to ascertain the date of revenue stamp over the suit promissory note by appointing an Advocate Commissioner and to file a report.

4. According to the petitioner, he did not borrow any money from the respondent and he did not execute any document. He gave blank promissory note signed in the revenue stamp to one R.Rajagopal in the year 2001. The said blank promissory note is misused by the respondent. To prove the petitioner's case, it is necessary to find out the age of the revenue stamp.

5. The respondent filed counter affidavit and submitted that the petitioner only brought promissory note affixed revenue stamp therein. The year of the revenue stamp is not relevant, as there is no prohibition for using the revenue stamp of earlier period.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

7. Against the said order of dismissal dated 17.09.2014 made in I.A.No.547 of 2013 in O.S.No.6 of 2010, the present Civil Revision Petition is filed by the petitioner/defendant.

8. From the materials available on record, it is seen that the petitioner has not stated how the age of the revenue stamp is relevant to decide the issue. The learned Judge dismissed the application holding that year of the revenue stamp is not relevant to decide the issue as to whether the petitioner borrowed money and he is liable to pay money as claimed by the respondent. The petitioner can let in evidence to prove his case and expert's opinion is not necessary to decide the issue in the suit.

9. Considering all the materials on record and reasoning of the learned Judge for dismissing the application, I hold that there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 17.09.2014.

10. In the result, the Civil Revision Petition is dismissed. As the suit is of the year 2010, the learned Judge is directed to dispose the suit in O.S.No.6 of 2010 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

18.01.2018

Index : Yes/No

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To

The Subordinate Judge, Madurantagam.

V.M.VELUMANI, J.

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