

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.504 of 2013
and M.P.No.1 of 2013

K.Ramu

.. Petitioner

Vs.

Ponnurangam

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 11.12.2012 made in I.A.No.740 of 2012 in I.A.No.386 of 2011 in O.S.No.205 of 2009 on the file of the III Additional District Court, Thiruvallur at Poonamallee.

For Petitioner : Mr.A.Satish
for Mr.M.L.Ramesh

For Respondent : Mr.L.Prabakar

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 11.12.2012 made in I.A.No.740 of 2012 in I.A.No.386 of 2011 in O.S.No.205 of 2009 on the file of the III Additional District Court, Thiruvallur at Poonamallee.

2.The petitioner is defendant and respondent is the plaintiff in O.S.No.205 of 2009 on the file of the III Additional District Court, Thiruvallur at Poonamallee. The respondent filed the said suit for recovery of a sum of Rs.10,26,800/- based on the promissory note dated 27.12.2006 together with interest at 24% per annum on a principal amount of Rs.6,00,000/- from the date of the plaint to till the date of realization of entire amount. The respondent filed application in I.A.No.149 of 2010 for attachment before judgment. The notice sent to the petitioner in I.A.No.149 of 2010 and suit summons were served on the petitioner. The petitioner was set *exparte* in the suit and I.A.No.149 of 2010 and attachment order was passed on 18.06.2010 and the said petition was allowed on 21.07.2010. Subsequently, the petitioner filed application to set aside the *exparte* order in the suit and also in I.A. *Exparte* order in the suit was set aside. The petitioner filed written statement and trial of the suit commenced. P.W.1 was examined in part.

3.At this stage, the petitioner filed present I.A.No.740 of 2012 of 2011 under Order XXVI Rule 10(a) read with Section 151 of C.P.C to get expert opinion from the hand writing expert about the alleged disputed signature of the petitioner with the admitted signature of

the petitioner and for report. According to the petitioner, the present I.A is filed to send the signature found in the acknowledgement in the notice sent in I.A.No.149 of 2010 filed for attachment before judgment for comparison with his admitted signature in the written statement. He has vacated the premises to which notice was sent in I.A.No.149 of 2010 and hence, he did not receive notice and did not sign in the acknowledgement.

4.The respondent filed counter affidavit and contended that interim attachment was ordered and subsequently the same was made absolute. The petitioner has deliberately signed in different manner in vakalat and written statement. In the suit, trial has commenced and only to drag on the proceedings, the petitioner has come out with the present application and prayed for dismissal of the application.

5.The learned Judge considering the averments in the affidavit, counter affidavit and the fact that the petitioner has not disputed the signature in the suit promissory note and trial has commenced, dismissed the application.

6. Against the said order of dismissal dated 11.12.2012 made in I.A.No.740 of 2012 in I.A.No.386 of 2011 in O.S.No.205 of 2009, the petitioner has come out with the present Civil Revision Petition.

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

8. The petitioner is seeking to send the disputed signature in acknowledgement of notice sent in I.A for comparison with signature in the vakalat and written statement filed by him. The acknowledgement in question relates to application for attachment before judgment of the property belonging to the petitioner. In the said application, interim attachment was ordered and subsequently the said order was made absolute. The petitioner after commencement of trial, after P.W.1 examined in part, has come out with the present application belatedly. The contention of the respondent that the said application is filed only to drag on the proceedings has considerable force. Further the learned Judge has considered the fact that the petitioner did not dispute the signature in the suit promissory note and trial has commenced, dismissed the

application holding that no useful purpose will be served by comparing the signature in the acknowledgement.

9.In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 11.12.2012 made in I.A.No.740 of 2012 in I.A.No.386 of 2011 in O.S.No.205 of 2009.

10.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the suit is of the year 2009, the learned Judge is directed to dispose of the suit as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

सत्यमेव जयते

23.03.2018

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gsa

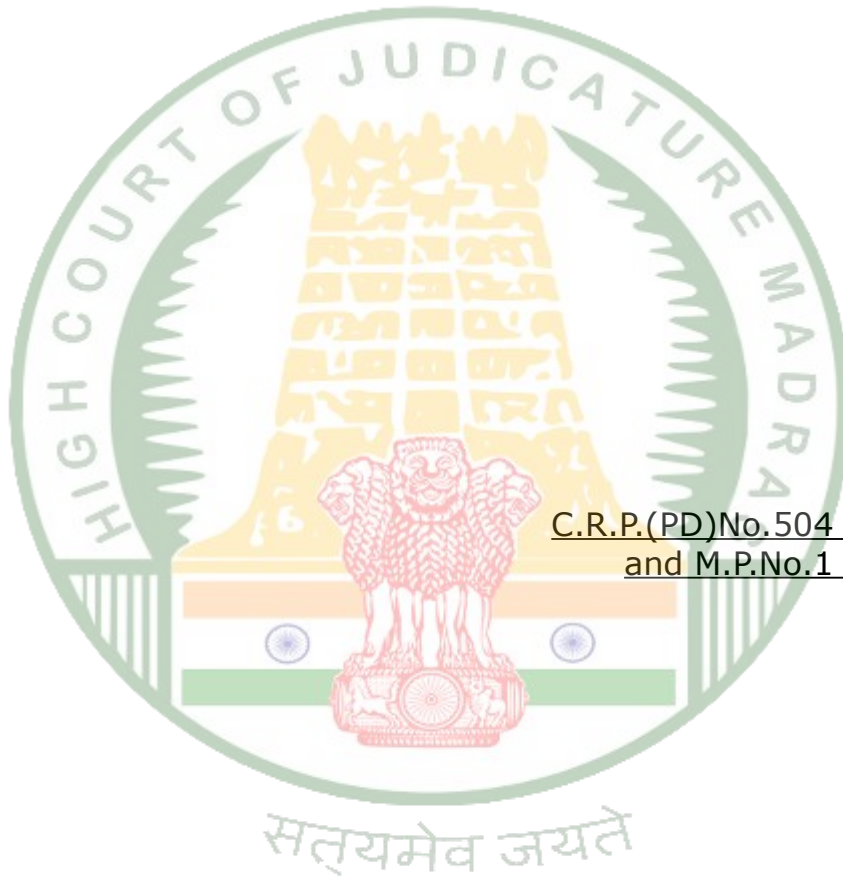
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To

The III Additional District Judge,
Thiruvallur,
Poonamallee.

V.M.VELUMANI,J.

gsa



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