

A.No.2322 of 2017
in
C.S. No. 568 of 2015

M.SUNDAR,J.

Sole plaintiff in the main suit is the lone applicant in the instant application.

2. First defendant in the main suit is the first respondent in the instant application.

3. Parties in the instant application shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

4. This suit is now being pursued by the plaintiff only against the first defendant. Other defendant i.e., 2nd defendant has been given up. Likewise, the other defendant, who has been arrayed as second respondent in the instant application have been given up.

5. Instant application turns on a very narrow compass. This application has been taken out with a prayer to compare the signature of Mr.S.S.Chakaravarthi in the loan agreement dated 03.04.2013 with his admitted contemporary signature. The prayer in the application reads as

follows:

'....to appoint an Advocate Commissioner to take the Loan Agreement dated 03.04.2013 and also the Distribution Agreement dated 27.10.2007 pertaining to the feature film "Kalai" filed in C.S.No.567/2015 and submit the same to an handwriting expert to be appointed by this Hon'ble Court for comparison of signatures found in both the documents with a direction to submit the report pending disposal of the suit.'

6. Mr.K.Chandrasekaran, learned counsel for plaintiff submits that prayer in the application need to be acceded to, as the documents referred to the in the prayer are pivotal to this suit.

7. Opposing this application, learned counsel for sole defendant (now) submits that the execution of loan agreement and distribution agreement are disputed by the sole defendant and the signatures therein are not signatures of Mr.S.S.Chakaravarthi.

8. In the light of the aforesaid opposition, this Commercial Division is of the considered view that the ground for opposition itself becomes a ground for acceding to the prayer as the signatures and execution of the documents itself are disputed.

9. Having perused the affidavit and counter affidavit and having heard both the learned counsel, this Commercial Division is of the considered view that it would serve the interest of justice, if the prayer in this application is acceded to. On the contrary, no prejudice or hardship would be caused to the sole defendant if the prayer is acceded to. Both the learned counsel agree that the original documents shall be sent to the Director, Tamil Nadu Forensic Sciences Department, Forensic House, No.30A, Kamarajar Salai, Mylapore, Chennai - 600 004, for comparison and report. Both learned counsel also referred to a judgment of this Court reported in **2010-1-L.W 646 [S.Chinnathia Vs. K.C.Chinnadurai]** and submitted that an Advocate Commissioner has to necessarily be appointed to take the original documents from this Court to the aforesaid entity for comparison.

10. In the light of the aforesaid submissions, Mr.N.Palanivel, Advocate, [En.No.606//2001], having address at No.253, Additional Law Chamber, High Court, Chennai [Mobile Nos.8838690104 & 9444088308] is appointed as Advocate Commissioner. Initial remuneration of the Advocate Commissioner is fixed at Rs.15,000/- (Rupees Fifteen Thousand only) and the same shall be paid by the plaintiff subject to outcome in the main suit. Besides this, all out of pocket expenses of advocate commissioner should also be met by plaintiff subject of course to outcome in main suit. Advocate Commissioner

shall take the original documents concerned to the aforementioned entity for comparison and obtain a report from the said entity on or before 28.01.2019.

11. To be noted, if the documents which are to be taken for examination/comparison have not already been filed as documents along with the plaint, learned counsel for plaintiff shall make the original available for examination/comparison.

12. Registry is directed to send a copy of this order to the Director, Tamil Nadu Forensic Sciences Department, Forensic House, No.30A, Kamarajar Salai, Mylapore, Chennai - 600 004 for the needful being done in this regard.

13. Report from the Tamil Nadu Forensic Sciences Department to be obtained by 28.01.2019 and the report to be filed in the Court in the next listing by the Advocate Commissioner. Next listing of the main suit is on 31.01.2019.

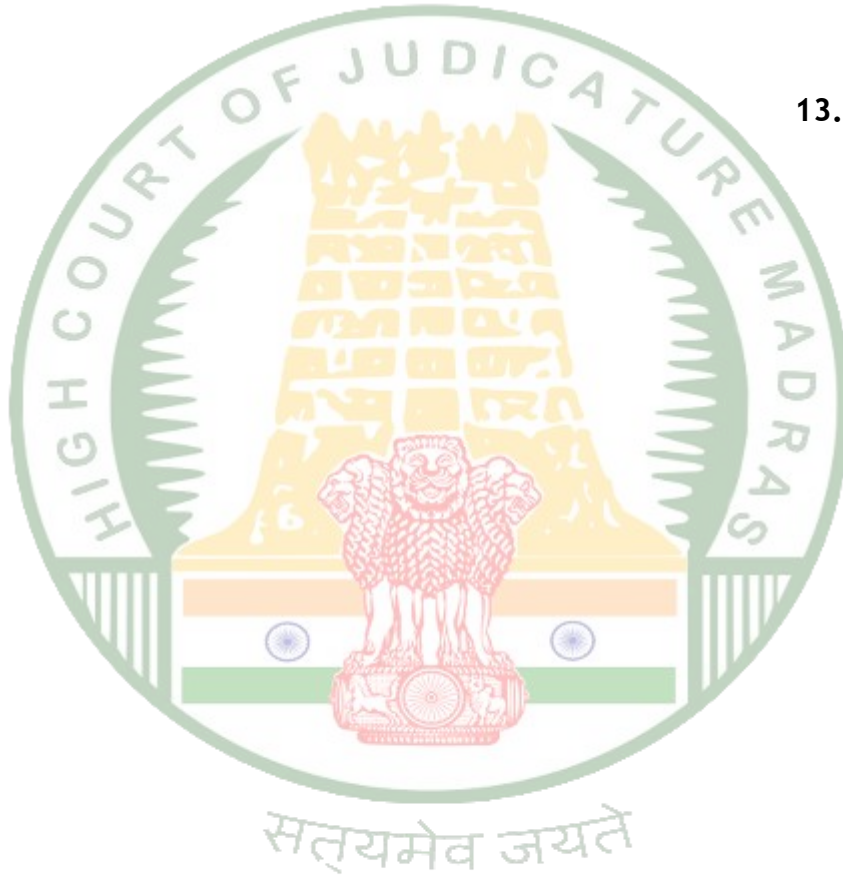
14. Besides advocate commissioner's initial remuneration and out of pocket expenses remuneration payable to the Tamil Nadu Forensic Sciences

Department shall also be paid by the plaintiff subject of course to out come of the main suit.

15. Application is ordered on above terms.

13.12.2018

vsm/ssb



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vsm/mp



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