

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Civil Revision Petition (PD) No.3205 of 2018 and
C.M.P.No.18347 of 2018

Mrs.M.Sabira Begum ... Petitioner

..VS..

Mr.M.Kuppusamy ... Respondent

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal Order dated 15.03.2018 in I.A.No.108 of 2018 in O.S.No.270 of 2004 on the file of the II Additional Subordinate Court, Erode.

For Petitioner : Mr.D.Gopal

For Respondent : Mr.P.Parthikannan

ORDER

The Order under challenge is allowing the respondent's application filed under section 45 of the Evidence Act for comparison of the

signatures of the respondent's in Ex.B.5 to Ex.B.8 with the respondent's admitted signatures.

2. The learned counsel for the petitioner submitted that execution of receipts by the respondent herein had been brought to his knowledge even at the time of the reply notice in the year 2004 as well as in the written statement filed in the same year. In spite of the same, the respondent herein has not chosen to take out any application for expert opinion and had waited till the commencement of trial. As such, it is his submission that the sale agreement itself is being only for money transaction, the petitioner herein is trying to fill up the lacunae in the case and to delay the proceedings.

3. On the other hand, the learned counsel for the respondent submitted that though the petitioner had filed the written statement in the year 2004, the disputed receipts covered under Ex.P.5 to Ex.P.8 were not produced along with the written statement. It was during the course of the trial, he was made to realise that the receipts were forged and had immediately filed an application for sending the receipts for comparison. The Court below had also accepted the submission of the respondent herein and had allowed the application.

4. As pointed out by the learned counsel for the petitioner he had categorically stated in the written statement that the sale agreement was a money transaction with the respondent herein and had executed certain valuable receipts. However, the receipts which are now under dispute were not produced by the petitioner along with the written statement. It is the specific case of the respondent that only when he had examined the receipts, he was made aware of the forged signatures. Therefore, he had filed the application. The Court below has come to a similar finding stating that the respondent was not given an opportunity of evidencing the receipts when the written statement was filed and that only during the course of trial, he had examined the documents. When the receipts were not produced before the Court at the time of written statement and when the same came to the knowledge of the respondent herein during the course of trial, he had rightly taken out an application for sending the receipts for comparison of such disputed signatures. As a matter of fact, these documents, in which signatures are disputed by the respondent are vital documents to decide the issue involved in the present suit. The only yardstick that could be applicable in circumstances of the case would be to send the disputed signatures for comparison and the Court has to analyse the fact as to whether, by sending the signatures for comparison, it would assist the Court to come to just and fair conclusion.

Since the documents are vital in nature, the documents have to be sent for comparison and as such I do not find any infirmity in the finding of the Court below.

5. Accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No cost.

26.11.2018

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Index: Yes/No

Speaking order/non speaking order

To

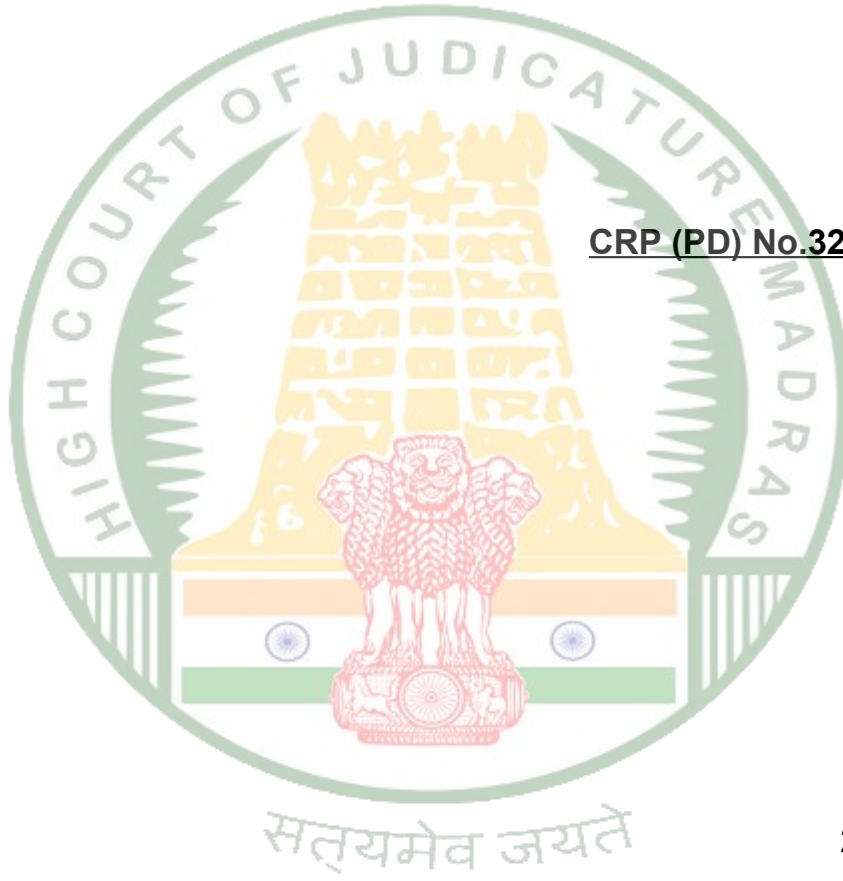
The II Additional Subordinate Judge,
Erode.



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M.S.RAMESH, J.

VRC



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