



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.09.2018

DELIVERED ON : 19.09.2018

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THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) Nos. 839 and 1458 of 2015
and
M.P. (MD) No.1 of 2015

K.Kalavathi .. Petitioner/Defendant in both C.R.P.s

Vs.

Angaiyan .. Respondent/Respondent/Plaintiff in both C.R.P.s

Common Prayer : This Civil revision petitions filed under Article 227 of Constitution of India, to set aside the order dated 26.02.2015 passed in I.A.No.58 of 2014 and I.A.No.99 of 2013 in O.S.No.49 of 2013 on the file of the learned Principal District Judge, Theni District.

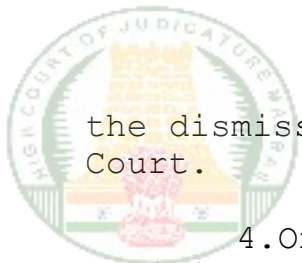
For Petitioner : Mr.S.Alagusundar
For Respondent : Mr.K.Guhan

COMMON ORDER

Heard Mr.S.Alagusundar, learned counsel appearing for the petitioner and Mr.K.Guhan, learned counsel appearing for the respondent.

2.This petitions have been filed to set aside the order dated 26.02.2015 passed in I.A.No.58 of 2014 and I.A.No.99 of 2013 in O.S.No.49 of 2013 on the file of the learned Principal District Judge, Theni District.

3.A common order was passed in these petitions in the lower Court. In I.A.No.88 of 2013, the respondent herein filed a petition for attachment of the property and this petitioner filed I.A.No.88 of 2013 for send for the documents from Karur Vysya Bank and another I.A.No.99 of 2013 is filed by the petitioner to sent the documents to Forensic Department for expert opinion. The case of the respondent is that the husband of the petitioner's husband borrowed a sum of Rs.9,00,000/- (Rupees Nine Lakhs only) on 27.09.2012 and for recovery of the said amount with interest, the suit was filed. The respondent wanted to attach the property of the petitioner herein and filed a petition in I.A.No.88 of 2013 and that petition was dismissed by the trial Court. I.A.No.99 of 2013 is for sending the document for expert opinion. I.A.No.58 of 2013 is for sending for the documents from Karur Vysya Bank. This petition is against



the dismissal this petitions by the common order passed by the lower Court.

4. On the side of the petitioner, it is stated that the petitioner died on 04.08.2013 and the suit was filed before his death and to disprove the signature in the suit, documents to be sent to expert opinion is necessary.

5. On the side of the respondent, it is stated that money suit is based on the pro note and the petitioner and her husband jointly executed a pro note in favour of the respondent. The suit was filed for three years from the date of execution of pro note and the document to be compared is of the year 2006 and the petitioner has not come forward to send for any contemporary document and the loan account was already closed and there is no use in sending for the document in the Bank and the application is to be dismissed and that expert opinion is not conclusive report and expert opinion is not at all necessary.

6. A perusal of the records reveals that the original suit was filed in the year 2013 and the Pro note was dated 27.09.2012. The document to be compared is of the year 2006. On the side of the petitioner, it is stated that she and her husband obtained a loan from the Bank for the purchase of two wheeler and their signature will be available with the bank. It is clearly stated that the said Bank loan was already closed and if the bank account is closed, there will be chance for the Bankers to keep the documents relating to the said loan. The petitioner has stated that they obtained house loan in LIC and she is claimant in the M.C.O.P. filed before the Motor Accident Claims Tribunal, Chennai. The petitioner has not taken any steps to send for the above document. In the circumstances, the prayer of the petitioner will be of no use to decide the validity of the pro note and the signature of the petitioner is available in the case records and the Judicial Officer himself can compare any such contemporary documents during the course of the trial. In the above circumstances, there is nothing to interfere with the order passed by the trial Court. These Civil Revision Petitions are dismissed. No Costs. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar (CS-II)

To

The Principal District Judge, Theni District.

+1cc to Mr.S.Alagusundar, Advocate, SR.No. 85030

+2cc to Mr.K.Guhan, Advocate, SR.No. 85248,85247

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