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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 09.08.2018  
CORAM  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD)No.1320 of 2016 and  
C.M.P.(MD)No.6325 of 2016

S.P.Pandiammal

... Revision Petitioner/Petitioner/  
1<sup>st</sup> Defendant

Vs.

S.Maheswari

... Respondent/Respondent/Plaintiff

**PRAYER :** Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the records pertaining to the fair and decretal order dated 22.02.2016 made in I.A.No.752 of 2015 in O.S.No.227 of 2010 on the file of the learned III Additional Subordinate Judge, Madurai and set aside the same.

For Petitioner : Mr.M.Mohamed Ajees Dheen

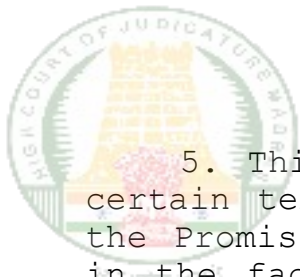
**ORDER**

The Revision petitioner was shown as the first defendant in O.S.No.227 of 2010 filed by the respondent herein before the Subordinate Court, Madurai.

2. It is a money suit. The first defendant is the mother-in-law while the second defendant is the son-in-law. The third defendant is the first defendant's daughter. The suit was allowed on the strength of the Promissory Note. The plaintiff had issued pre-suit notice. The Revision petitioner had given a reply on 06.04.2010 controverting the claim of the respondent herein. In the suit also, the Revision petitioner entered appearance and filed her written statement denying the signature attributed to her in the Promissory Note. However, the suit was decreed ex-parte on 04.12.2013. To set aside the same, the first defendant filed I.A.No.752 of 2015. The Court below dismissed the said application. The correctness of the order is challenged in this Civil Revision petition.

3. Though the respondent Maheswari has been served through Court notice and her name is also printed in the cause list, she has not chosen to enter appearance.

4. The learned counsel for the Revision petitioner strongly submits that the Revision petitioner's son-in-law had dealings with financiers who had set up the respondent as a proxy to institute the present suit.



5. This Court is of the view that the Revision petitioner has certain tenable defences. She would question the very execution of the Promissory Note attributed to her as rank forgery. Therefore, in the facts and circumstances of the case, particularly, because the respondent has not chosen to enter appearance in this Civil Revision petition, this Court is of the view that the I.A., filed by the Revision petitioner can be allowed on terms. The Revision petitioner shall deposit a sum of Rs.5,000/- towards costs to the credit of O.S.No.227 of 2010 for allowing this Civil Revision petition. The order dated 22.02.2016, dismissing the I.A.No.752 of 2015 in O.S.No.227 of 2010 stands set aside and the Civil Revision petition stands allowed.

6. The matter cannot rest there. The decree in question can be severed as against the first defendant. The other two defendants have not chosen to challenge the ex-parte decree. Therefore, the ex-parte decree made in O.S.No.227 of 2010 can very well be executed against defendants 2 and 3. The Revision petitioner alone is permitted to contest the said suit. As rightly pointed out, the Revision petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) towards costs to the credit of O.S.No.227 of 2010 on the file of the learned III Additional Subordinate Judge, Madurai, which can be withdrawn by the plaintiff. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The III Additional Subordinate Judge, Madurai
2. The Record Keeper, V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai. (**2 copies**)

+1CC to Mr.M.Mohamed Ajees Dheen, Advocate, SR.No.77976

C.R.P. (PD) (MD) No.1320 of 2016 and  
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