



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD)No.2415 of 2018

and

C.M.P. (MD)No.10779 of 2018

Saroja

.. Petitioner

Vs.

Victor Anthuvan

.. Respondent

PRAYER: Petition filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order dated 29.08.2018 made in E.A.No.91 of 2018 in E.P.No.44 of 2017 in O.S.No.57 of 2008 on the file of the learned Principal Subordinate Judge, Thanjavur.

For Petitioner : Mr.M.P.Senthil

ORDER

This civil revision petition is directed against the order dated 29.08.2018 made in E.A.No.91 of 2018 in E.P.No.44 of 2017 in O.S.No.57 of 2008, passed by the learned Principal Subordinate Judge, Thanjavur.

2. O.S.No.57 of 2008 was filed by the respondent herein for recovery of money and after a full fledged trial, the same was decreed on 30.11.2010. Aggrieved over the same, the petitioner herein, being the judgment debtor, has preferred an appeal in A.S.No.17 of 2011 and the same was dismissed on 05.09.2012. Thereafter, the respondent herein has filed an execution petition in E.P.No.44 of 2017. According to the petitioner, Ex.A1 - promissory note is a forged one and the signature found therein is not her signature. Therefore, she has filed E.A.No.91 of 2018 to refer Ex.A.1 - promissory note dated 10.07.2006 to an expert so as to compare the disputed signature with the sale deed produced by her before the Court on 10.12.1980. This application was dismissed by the Court below and aggrieved over the same, the present civil revision petition has been filed by the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Heard the learned Counsel appearing for the petitioner and perused the materials available on record. Notice to the respondent



is dispensed with.

4. Perusal of the judgment and decree of both the trial Court and the first appellate Court, it is seen that the contention that was now raised by the petitioner, ie., forged signature in promissory note, was clearly discussed and negatived. This aspect was elaborately dealt with by the Executive Court in the order impugned in the present civil revision petition. Having failed in her contention before both the trial as well as first appellate Courts, the petitioner ought to have preferred a regular second appeal, but, she has failed to do so.

5. The suit, which is of the year 2008, was decreed on 30.11.2010, against which, an appeal was preferred and the same was dismissed on 05.09.2012. Admittedly, there is no second appeal, as on date, against the decree that stands in favour of the respondent herein. After a long period of time, the petitioner is attempting to reopen a plea that was already negatived by both the trial as well as first appellate Courts, which, in the opinion of this Court, is nothing but an attempt to drag on the proceedings. Though the respondent has got a decree as early as in the year 2010, still he was not able to enjoy its fruits.

6. There is no merit in the civil revision petition and the same is liable to be dismissed. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The Principal Subordinate Judge,
Thanjavur.

+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 94649

GK

TE/SV/SAR-4 : 30/11/2018 : 2P/3C

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