



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.01.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (MD) No.644 of 2011 (PD)
and
M.P. (MD) No.1 of 2011

P.T.Jeyasingh Durairaj ... Petitioner/Respondent/
Plaintiff

vs.

Murugaiah Pandian ... Respondent/Petitioner/
Defendant

PRAYER: Petition filed under Section 227 of Constitution of India, to set aside the Fair and Decreetal order dated 10.11.2010 passed in I.A.No.417 of 2010 in O.S.No.57 of 2010 on the file of the Principal Sub Judge, Tenkasi, and allow the present Civil Revision Petition.

For Petitioner : Mr.S.S.Thesigan
For Respondent : Mr.D.Venkatesh

ORDER

This Civil Revision petition has been filed to set aside the fair and decreetal order dated 10.11.2010 passed in I.A.No.417 of 2010 in O.S.No.57 of 2010 on the file of the Principal Sub Judge, Tenkasi.

2.Heard both sides.

3.The respondent has filed I.A.No.417 of 2010 on 08.09.2010 under Order 26 Rule 10(A) and 151 C.P.C., to send the documents Exhibit Nos.A1 and A3 which are counter and vakalat and expert opinion to find out the signature of the petitioner therein.

4.On perusal of the records, it is learnt that the suit filed by the plaintiff is for recovery of money and the defendant has made objection stating that it is a forged pro-note and the signature is also not true one. It is also the contention of the petitioner that there is lot of difference between Exs.A3 signature and A1 signature.

5.The petitioner in the Civil Revision Petition is the plaintiff, questioning the order of the Trial Court passed in I.A.No.417 of 2010 stating that the signature in the documents that was created after the suit cannot be made for comparison and he had no objection for comparing the signature in Exs.A1 and A3 and also the acknowledgement card and allowed the application on condition



that the defendant affix three signatures and writes a paragraph in open Court and this paper shall be sent along with disputed signatures for comparison by handwriting expert.

6. Now, the objection raised by the plaintiff is that there is ample chance for the defendant to alter his signature in the vakalat after filing the suit along with documents. It is also argued by the petitioner/plaintiff that the documents marked before the Trial Court namely, Ex.A1 is the pro-note and Ex.A3 is the acknowledgement for the lawyer notice. It is objected by the petitioner/plaintiff that already the signature found in Ex.A1 is forged one and hence, the signature obtained in the Court documents has to be sent for expert opinion. Hence, the objection made by the petitioner is only to the order that was passed by the Trial Court getting signature from the defendant in the open Court.

7. Today the learned counsel for the petitioner submitted that the petitioner has no grievance, if the signature of the plaintiff/petitioner containing in the suit pro-note, is to be compared with signature containing in Exhibit-A3 which is the acknowledgement card for the legal notice and the signature found in the acknowledgement of suit summons.

8. It is represented by the respondent that to his knowledge there is no document containing the signature of the defendant. Considering the same this Court is directed to delete only condition that the signature of the defendant should be obtained in the open Court.

9. The respondent is also permitted to compare the documents containing the signature of the defendant in the earlier documents, that was executed prior to the suit pro-note. The respondent is directed to produce the said document, if any, within a week from the date of receipt of a copy of this order.

10. Since the suit is of the year 2010, after obtaining the expert opinion, the Trial Court is directed to dispose the case within three months from the date of receipt of copy of this order.

11. Both the counsel before the Trial Court are also directed to co-operate with the Court for speedy disposal.

12. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Subordinate Judge, Tenkasi,

2. The Record Keeper, V.R. Section (2 copies)

Madurai Bench of Madras High Court, Madurai.

+One cc to M/s.D.Venkatesh, Advocate, SR.No.45059

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

RL/5C/2P/KKR/SAR1/19/3/2018

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