



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD)No.947 of 2013 (PD)

and

M.P. (MD)No.1 of 2013

Sheik Uduman

... Petitioner

Vs.

Palaniyammal

... Respondent

PRAYER: Petition filed under Section 227 of Constitution of India, to set aside the fair and decretal order dated 18.04.2013 passed in I.A.No.874 of 2012 in O.S.No.90 of 2010 on the file of the Principal Sub-Court, Tenkasi by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Meenakshisundaram

For Respondent : Mr.N.Ganagasapapathy

ORDER

This civil revision petition is filed by the plaintiff as against the order passed in I.A.No.874 of 2012 in O.S.No.90 of 2010 on the file of the Principal Sub-Court, Tenkasi.

2.The revision petitioner has filed a suit in O.S.No.90 of 2010 on the file of the Principal Sub Court, Tenkasi for recovery of a sum of Rs.5,38,400/- (Rupees Five Lakhs Thirty Eight Thousand Four Hundred Only) on the basis of a pro-note dated 30.08.2007. Since the execution of the pro-note was disputed, the plaintiff took steps to get an expert opinion by sending the pro-note along with the signature of the defendant. However, I.A.No.579 of 2010 was allowed and the Court permitted the document to be sent for expert opinion. The expert opinion has also been obtained. Thereafter, the defendant in the suit filed I.A.No.874 of 2012 in O.S.No.90 of 2010 to produce the expert opinion and the connected documents as Court documents. This petition was opposed by the plaintiff. Ultimately, the trial Court allowed the petition. The objection of the revision petitioner before this Court that the document should be marked only through the expert as the petitioner is losing a chance to cross examine the expert.

3.It is also submitted by the learned counsel appearing for the revision petitioner that the petitioner has not filed any objections to the opinion obtained from the expert and that the order of the lower Court is erroneous.



4. First of all, the Court has passed an order to mark the document through the expert. Hence, it is open to the revision petitioner to cross examine the expert as and when the expert is called by summons to give evidence for the purpose of either marking the document or to speak about his report. The fact whether the revision petitioner has filed any objection or not to the expert opinion is irrelevant to decide the application filed by the defendant in I.A.No.874 of 2012.

5. In view of the above discussion, this Court has no reason to entertain the civil revision petition and accordingly, the civil revision petition is dismissed confirming the order passed by the Principal Sub Court, Thenkasi in I.A.No.874 of 2012 in O.S.No.90 of 2010. This order will not stand in the way of revision petitioner either to file objections to the expert opinion or to cross examine the expert as and when the expert is called upon by summons or gives evidence for the purpose of either marking the document or to speak about his report. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge, Tenkasi.

+1CC to Mr.D.Nallathambi, Advocate, SR.No. 64419

+1CC to Mr.N.Ganagasapapthy, Advocate, SR.No. 64386

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and

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