

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (PD) No.3544 of 2008 &

C.M.P.No.1 of 2008

Mr.D.Anandan

.. Petitioner

Vs.

Mr.S.Manikandarajan

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the Order granting unconditional leave to defend the suit in O.S.No.1359 of 2008 passed by the learned XVIII Assistant Judge, City Civil Court, Chennai in I.A.No9863 of 2008 in O.S.No.1359 of 2008 dated 29.08.2008 on the file of the District Munsif Court, Kangayam, Erode District.

For Petitioner : MrsA.Karthika Ashok

For Respondent : --

ORDER

Aggrieved over the Order of the trial Court in granting unconditional leave to the defendant to file the written statement, the present revision has been filed by the plaintiff.

2. The learned counsel for the revision petitioner would submit that leave ought not to have been granted since the signature in the promissory note has been clearly admitted by the defendant. Hence, there is no triable issue in the suit and the leave granted by the trial Court is not based on proper appreciation of law.

3. Heard the learned counsel for the revision petitioner and also perused the Order of the trial Court.

4. Though the suit has been laid for recovery of money on the basis of a promissory note said to have been executed on 04.10.2006, it is the specific defence of the defendant that he never executed the promissory note on 04.10.2006 nor received any consideration and only a blank promissory note has been given in the year 1996 after receipt of a sum of Rs.50,000/-. It is the specific case of the defendant that the stamp affixed in the promissory note itself clearly prove the above fact. Hence, prayed for unconditional leave to defend the suit.

5. The trial Court after analysing the specific defence of the defendant that there are triable issues as to whether the promissory note was executed on 04.10.2006 or a blank promissory note of the year 1998 was utilised for filing the suit and taking note of the fact that there are triable issues, particularly with

regard to execution of the promissory note on 04.10.2006, granted unconditional leave to the defendant to defend the suit. In fact, the trial Court satisfied itself that the defendant has substantial defence. In view of the same, this Court is of the view that there is no error in the Order of the trial Court and this revision lacks merits and is liable to be dismissed.

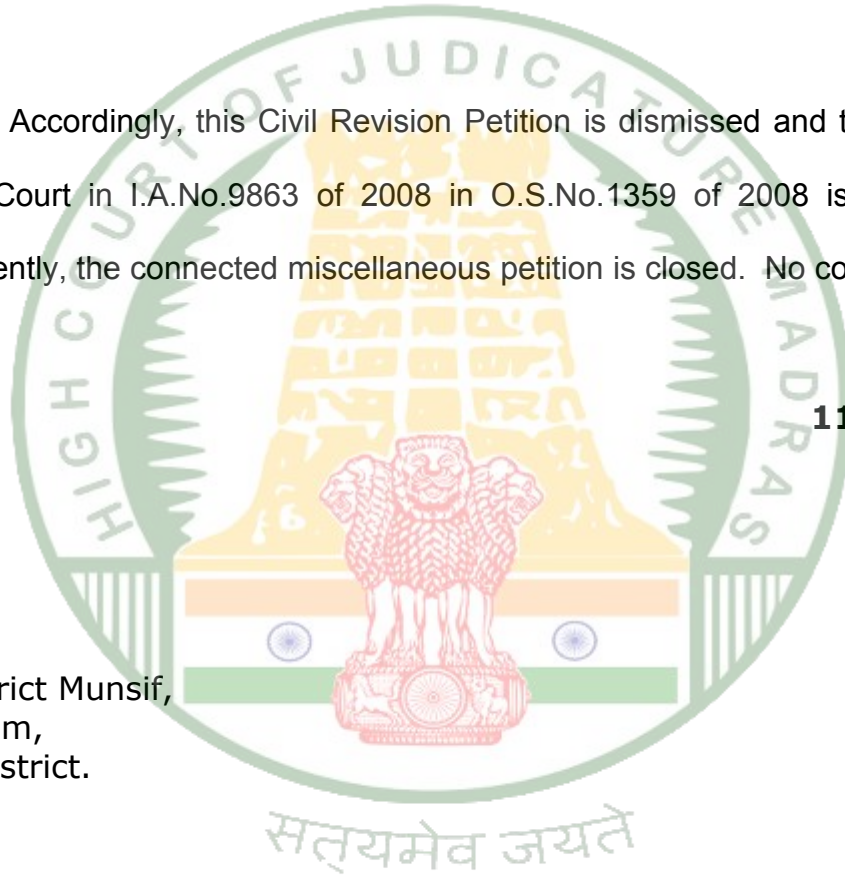
6. Accordingly, this Civil Revision Petition is dismissed and the Order of the trial Court in I.A.No.9863 of 2008 in O.S.No.1359 of 2008 is confirmed. Consequently, the connected miscellaneous petition is closed. No cost.

11.02.2019

vrc

To

The District Munsif,
Kangayam,
Erode District.



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N.SATHISH KUMAR, J.

vrc



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