

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(PD).No.118 of 2019

and

C.M.P.No. 1048 of 2019

V.X.Dominic Xavier ..Petitioners/Defendant

Vs.

R.Vijayaragavan ..Respondent/Plaintiff

This Civil Revision Petition is filed under Section 227 of the Constitution of India to set aside the order dated 26.11.2018 passed in I.A.No. 63 of 2018 in O.S.No. 217 of 2014, on the file of the learned First Additional District Judge, Salem.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Mr.N.Naganathan

ORDER

सत्यमेव जयते

The above Civil Revision Petition is filed challenging the order passed in I.A.No. 63 of 2018 in O.S.No. 217 of 2014, in and by which, the learned Judge has dismissed the application filed by the defendant to send the original pro-notes marked as Exs.A1 and A2 for the expert opinion with reference to both the thumb impression as well as the signature of the defendant.

2 The suit is filed on pro-notes and the defendant has disputed the signatures affixed therein. In order to prove his case, the defendants has filed this petition. The learned First Additional District Judge, Salem, has dismissed the application on the ground that the thumb impression in disputed documents Exs.A1 and A2 is not legible and that the signatures can be compared by the Court. The said order is the subject matter of challenge before this Court.

3 Heard the counsel on either side.

4 It is seen that the said application has been filed, prior to the defendants giving their evidence. The entire issue in the suit hinges on the signature affixed in the pro-note and also the thumb impression. The learned Judge has committed an error in trying to step into the shoes of an expert. If the thumb impression cannot be verified, the expert would be best person to give the opinion and the Court below ought not have been taken up this exercise.

5 Therefore, the order of the learned First Additional District Judge, Salem, is set aside, the defendant is directed to give his thumb impression before the Court in the presence of both the

counsel and the thumb impression so taken shall be send for the expert opinion along with disputed pro-note. Likewise, the signature in document from the Bank shall be compared signatures Ex.A1 and A2. The learned Judge shall take steps to complete this exercise by 30.06.2019.

6 In the result, the Civil Revision Petition stands allowed and order passed in I.A.No. 63 of 2018 in O.S.No. 217 of 2014, by the learned First Additional District Judge, Salem, dated 26.11.2018 is set aside. No costs. Consequently, connected miscellaneous petition is also closed.

24.04.2019

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Index: Yes/No

Internet: Yes/No

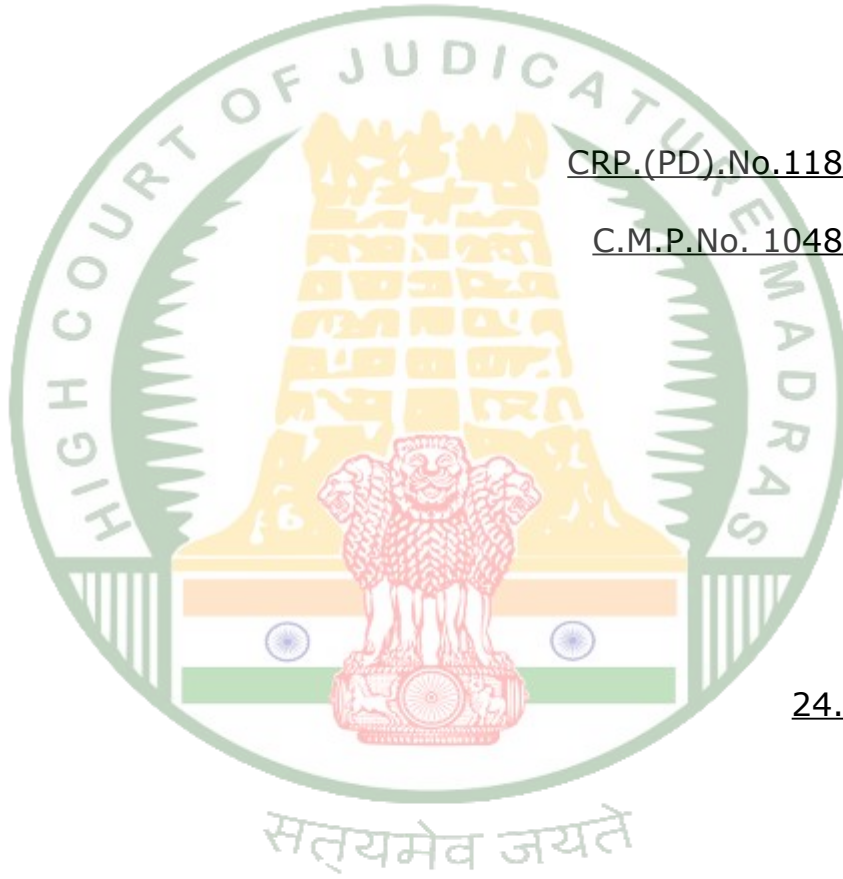
Speaking order / Non-speaking order

To

The First Additional District Judge,
Salem.

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P.T.ASHA, J.
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