

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.2701 of 2013 and
M.P.No.1 of 2013

K. Palanisamy

... Petitioner

v.

Appachi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India,
against the fair and decreetal order dated 21.06.2013 passed in
I.A.No.570 of 2013 in O.S.No.290 of 2004 on the file of the District Munsif
Court, Udumalpet.

For Petitioner : Mr. M.N. Balakrishnan

For Respondents : No Appearance

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ORDER

Though notice was duly served on the respondent and his name has been printed in the cause list, none appeared for the respondent.

2. Challenging the fair and final order passed in I.A.No.570 of 2013 in O.S.No.290 of 2004 on the file of the District Munsif Court, Udumalpet, the defendant has filed the above Civil Revision Petition.

3. The plaintiff filed the suit in O.S.No.290 of 2004 for recovery of money on a pronote. After the completion of the oral evidence, the plaintiff took out an application in I.A.No.570 of 2013 to recall P.W.1 for the purpose of marking Expert Opinion.

4. In the suit, the disputed signature of the defendant found in Ex.A1 pronote was sent to an Expert for comparison and the Expert also gave his report. However, the report was not marked in the suit. In these circumstances, the plaintiff took out an application for marking the Expert's Report through P.W.1. The defendant filed his counter contending that the Expert's Report can be marked only through an Expert and not through the P.W.1.

5. It is settled position that the document can be marked only through the author of the document.

6. When the Expert has given his report with regard to the signature found in Ex. A1 pronote, he is the proper witness to speak about the report. The plaintiff cannot speak about the report given by the Expert. The Trial Court, erroneously dismissed the application finding that the Expert Opinion can be marked through P.W.1.

7. Since the defendant has got the right of cross examination with regard to the contents of the Expert's Opinion, the proper witness to mark the Expert's Opinion is only the Expert, who gave the report and not the plaintiff.

8. In these circumstances, the fair and decreetal order passed in I.A.No.570 of 2013 are set aside and the application in I.A.No.570 of 2013 stands dismissed. However, it is open to the petitioner to mark the Expert's Report through the Expert. Liberty is given to the plaintiff to file appropriate application for examining the Expert as a witness on his side.

With these observations, the Civil Revision Petition is allowed.

No costs. Consequently, the connected miscellaneous petition is closed.

01.11.2019

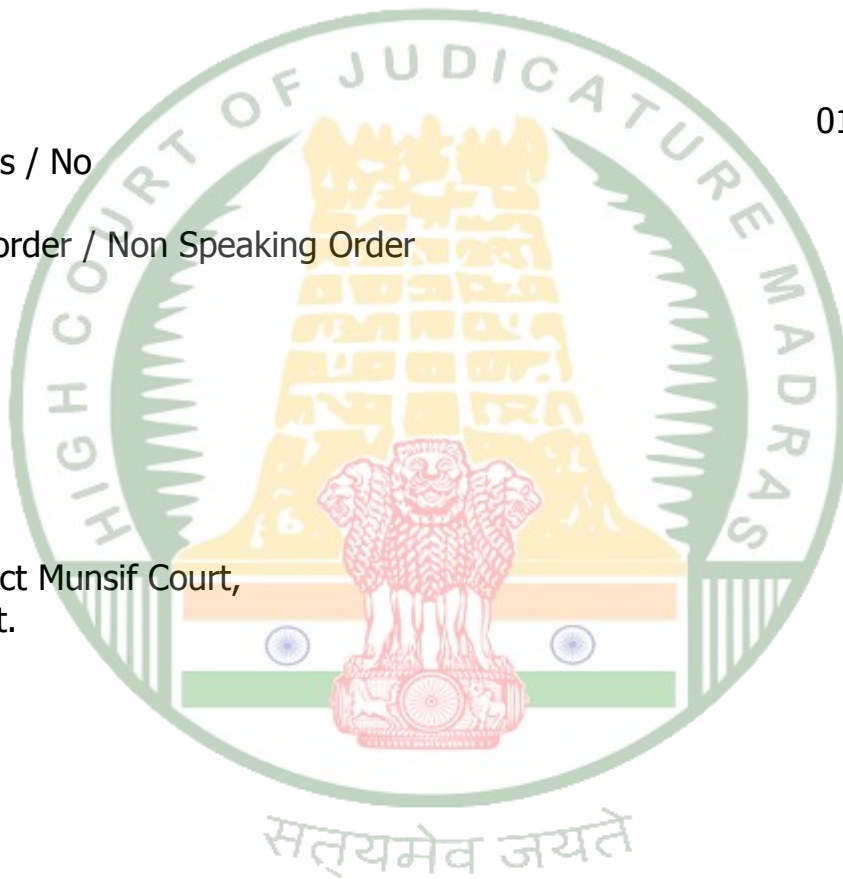
Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The District Munsif Court,
Udumalpet.

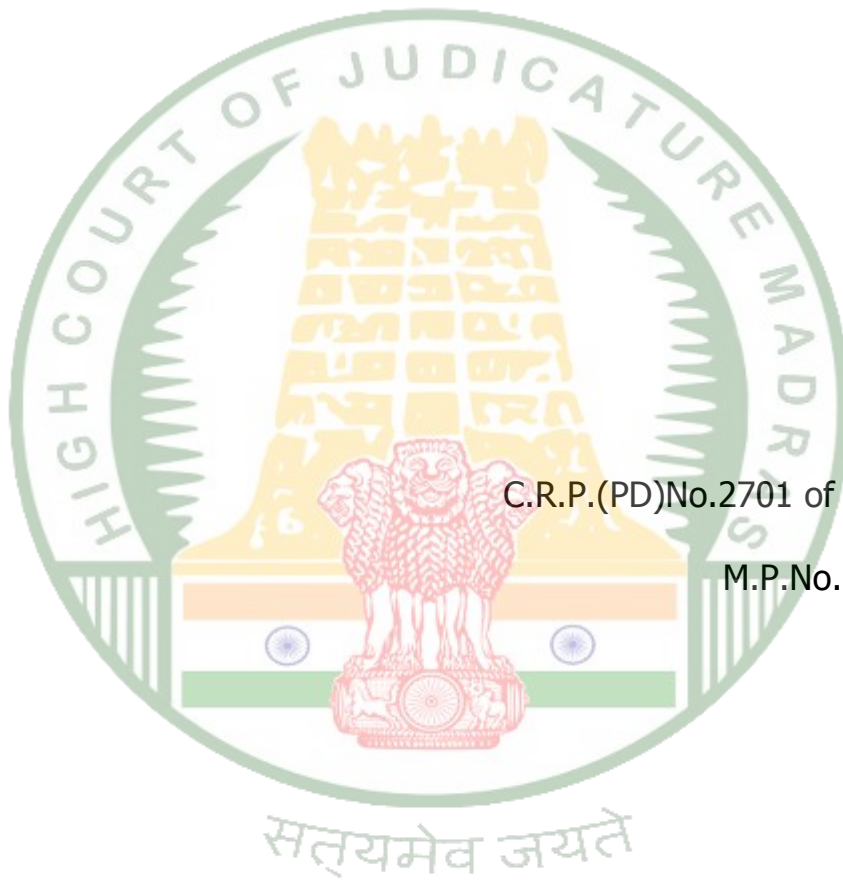


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C.R.P.(NPD).No.2701 of 2013

M.DURAISWAMY, J.

Rj



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M.P.No.1 of 2013

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