

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRP PD NO.4409 of 2013

M.P.No.1 of 2013

R.Medhavi

... Petitioner

Vs.

1. Bhavasar Maratah Benefit Fund Limited,
represented by its Director,
New No.49/Old No.23, Bangaru Naicken Street,
Mount Road, Chennai-2.

2. Balajee and Co.,
No.160, Thambu Chetty Street,
Chennai.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the orders dated 12.04.2011 passed in I.A.No.3215 of 2010 in O.S.No.2133 of 2007 by the XVIII Assistant City Civil Court, Chennai.

For Revision Petitioner : Dr.S.N.Amarnath

For 1st Respondent : Mr.M.Baskaran
for Mr.C.Sivanesan

ORDER

This revision petition has been filed against the orders passed by the trial court, dismissing the application, which had been filed to send the Ex.B2 to the finger print expert to compare the left thumb impression of the revision petitioner with the thumb impression found in Ex.B2 and to obtain expert's opinion.

2. The revision petitioner is the plaintiff in the original suit and the suit has been filed for permanent injunction restraining the defendants from selling the suit property on public auction. It is the case of the first respondent/first defendant that the principal borrowers namely one Chinnappan and his sons approached them for loan and offered their property as security. As the property offered by the said Chinnappan was inadequate to meet the loan amount, the first respondent requested him to bring some other person, who is having sufficient asset to meet the loan, as security. Accordingly, the said Chinnappan brought the revision petitioner and executed mortgage deed in favour of the respondent.

3. Whereas, it the specific contention of the revision petitioner that all the original documents are with him and he never visited the registrar office and the thumb impression found in mortgage deed is not that of him and hence, sought for sending the

Ex.B2 to the finger print expert for comparison of the thump impression found in Ex.B2 with his Thump impression and to get expert's opinion.

4. Since the allegations of the revision petitioner are disputed question of fact, this court is of the view that in order to assess the allegations properly, opinion of the expert in finger print, in this regard, is very much required, particularly, in the light of the allegations of the revision petitioner that he never visited the Registrar Office and put his thump impression. Therefore, the trial court ought to have allowed the application to find out the truth.

5. Accordingly, the trial court is directed to take the left thump impression of the revision petitioner in the open court and also call for the thump impression register from the concerned office of the Registrar and send the same along with the Ex.B2 original to the forensic department and direct the expert in finger print to compare the admitted finger prints of the revision petitioner, obtained in the open court with the disputed finger prints found in Ex.B2 and in the finger print register and give opinion. The revision petitioner shall bear the expenses for carrying out the said exercise. The trial court is directed to send those documents to the finger print expert, within two months from the date of receipt of a copy of this order.

6. With the above observations, this revision petition is

allowed. No costs. The connected civil miscellaneous petition is closed.
The order of the trial court is set aside.

27.03.2019

Note: Issue order copy on 02.04.2019

Index : Yes / No
Internet : Yes / No
speaking/non speaking
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To

The XVIII Assistant Judge,
City Civil Court, Chennai.



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