

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.1023 of 2019

and

CMP.No.6747 of 2019

1. M. Arulselvan
2. Mrs. M. Prema

... Petitioners

-VS-

P. Vijay Anand

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 28.02.2019 passed in I.A.No.161 of 2019 in O.S.No.6 of 2019, by the learned Subordinate Judge, Palladam, dismissing the petition filed by the petitioner seeking direction for sending the Exhibits A1 and A2 for expert opinion by comparing the same with the Exhibits A4 and A6, wherein the signature admitted by the petitioner herein found and consequently receive a report on the same.

For Petitioners : Mr. K . Venkatesan

For Respondent : Mr. A. Mohamed Ismail

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.No.161 of 2019 in O.S.No.6 of 2019. The learned Judge

dismissed the application filed by the defendants to send the disputed signature of the revision petitioner in Exhibits A1 and A2 for comparison with the admitted signature found in Exhibits A4 and A6. The learned Judge has dismissed the said application on the ground that there is no clarity in the application by the revision petitioner as to what are the documents which have to be compared and the learned Judge has also held that the material alternations are visible to naked eye that it does not require the same to be sent for an expert opinion. The said order was challenged by the revision petitioner/defendant.

2. Heard the counsel on either side. From the perusal of the papers, it is seen that the suit filed is one on promisory note. The suit is filed as early as in the year 2007.

3. In the written statement filed in the year August 2007, the revision petitioner had denied the signature in the promisory note. Now after completion of the evidence on the side of the plaintiffs, the application has been moved. Though it is belated, however considering the fact that there is a denial to the signature and the plaintiff having taken steps to have the signature compared, this Court is inclined to set aside the order passed in I.A.No.161 of 2019 and direct not only the signature to be compared but the revision petitioner

shall be directed to give his thumb impression to the Advocate Commissioner and the same shall also be sent for opinion of the expert along with the thumb impression found in the promisory note.

4. Learned Subordinate Judge, Palladam shall within a period of 15 days from the date of receipt of a copy of this order appoint an Advocate Commissioner and direct the documents to be sent for the expert opinion. Consequently, the Civil Revision Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

26.03.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order

mrn

To
1. The Subordinate Judge,
Palladam.

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P.T. ASHA, J.

mrn



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