

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2019

CORAM :

THE HON'BLE MR. JUSTICE M. DURAISWAMY

C.R.P. (NPD) Nos.1703, 1704 and 1705 of 2011

AyyamPerumal

... Revision Petitioner
in all revision petitions

Vs.

Syed Bakshu

... Respondent
in C.R.P. (NPD) No.1703 of 2011

Ameer Bee

... Respondent
in C.R.P. (NPD) No.1704 of 2011

Syed Bakshu

... Respondent
in C.R.P. (NPD) No.1705 of 2011

Prayer in C.R.P. (NPD) Nos.1703 of 2011 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order of the learned Subordinate Judge at Perambalur passed in I.A.No.24 of 2010 in A.S.No.10 of 2009 dated 05.04.2010.

Prayer in C.R.P. (NPD) Nos.1704 of 2011 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order of the learned Subordinate Judge at Perambalur passed in I.A.No.25 of 2010 in A.S.No.11 of 2009 dated 05.04.2010.

Prayer in C.R.P. (NPD) Nos.1705 of 2011 : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order of the learned Subordinate Judge at Perambalur passed in I.A.No.26 of 2010 in A.S.No.12 of 2009 dated 05.04.2010.

For Petitioner : Mr.S.Mohan
in all revision petitions
For Respondent : Mr.S.Vadivel Murugan
in all revision petitions

COMMON ORDER

Challenging the fair and final orders passed in I.A.Nos.24, 25 and 26 of 2010 in A.S.Nos.10, 11 and 12 of 2009 on the file of the Sub-Court, Perambalur, the defendant in O.S.Nos.184, 207 and 206 of 2005 on the file of the District Munsif's Court, Perambalur, has filed the above Civil Revision Petitions.

2.The respondent/plaintiff filed the suits in O.S.Nos.184, 207 and 206 of 2005 for recovery of money. The petitioner/defendant filed his written statement and contested the suits. In the written statement, the defendant disputed the genuineness of the suit pro-notes stating that they are fabricated documents. Before the trial Court, on the side of the plaintiff, three witnesses were examined and two documents were marked. On the side of the defendant, he was examined as P.W.1, however, no document was marked.

The trial Court, taking into consideration the oral and documentary evidence let in by the parties, decreed the suits.

3. Aggrieved over the same, the petitioner/defendant filed the appeals in A.S.Nos.10, 11 and 12 of 2009 before the Sub-Court, Perambalur. In the said appeals, the petitioner filed applications in I.A.Nos.24, 25 and 26 of 2010 under Section 45 of the Indian Evidence Act to send the suit pro-notes and vakalat filed by him to the hand-writing expert. The applications filed by the petitioner were opposed by the respondent/plaintiff. The lower appellate Court, taking into consideration the case of both the parties, dismissed the applications, finding that, the application were filed at a belated stage and that the disputed signature of the petitioner cannot be compared with the signature found in the vakalat and in the pleadings. Challenging the orders passed by the lower appellate Court, the defendant has filed the above Civil Revision Petitions.

4. As rightly observed by the lower appellate Court, the disputed signature of a party cannot be compared with the signature found in the vakalat and in the pleadings. The disputed signature can be compared only with the documents of the contemporary period. When the pro-note was executed in the year 2002 and when the written statement was filed in the

year 2007, the disputed signature found in the suit pro-notes cannot be compared with the documents of five years later. That apart, the defendant has not filed any application before the trial Court, seeking for comparison of the signature. When the trial Court has given a specific finding with regard to the genuineness of the documents in the judgment, at a belated stage, that too in the first appeal, the petitioner cannot seek for comparison of the signature. When the petitioner had every opportunity to file the application before the trial Court, he chose not to file the application before the trial Court.

5. It is settled position that, disputed signature cannot be compared with the signature found in the vakalat and in the pleadings. The prayer sought for in the applications filed by the petitioner/defendant is to compare the signature found in the suit pro-notes with the signature found in the vakalat. Since the prayer sought for in the applications is against the settled position, the lower appellate Court has rightly dismissed the applications. I find no error or irregularity in the orders passed by the lower appellate Court. Thus, these Civil Revision Petitions are devoid of merits and the same are dismissed. No costs.

31.10.2019

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Index : Yes / No
Internet : Yes / No
Speaking order / Nonspeaking order

To

1.The Subordinate Judge,
Perambalur.

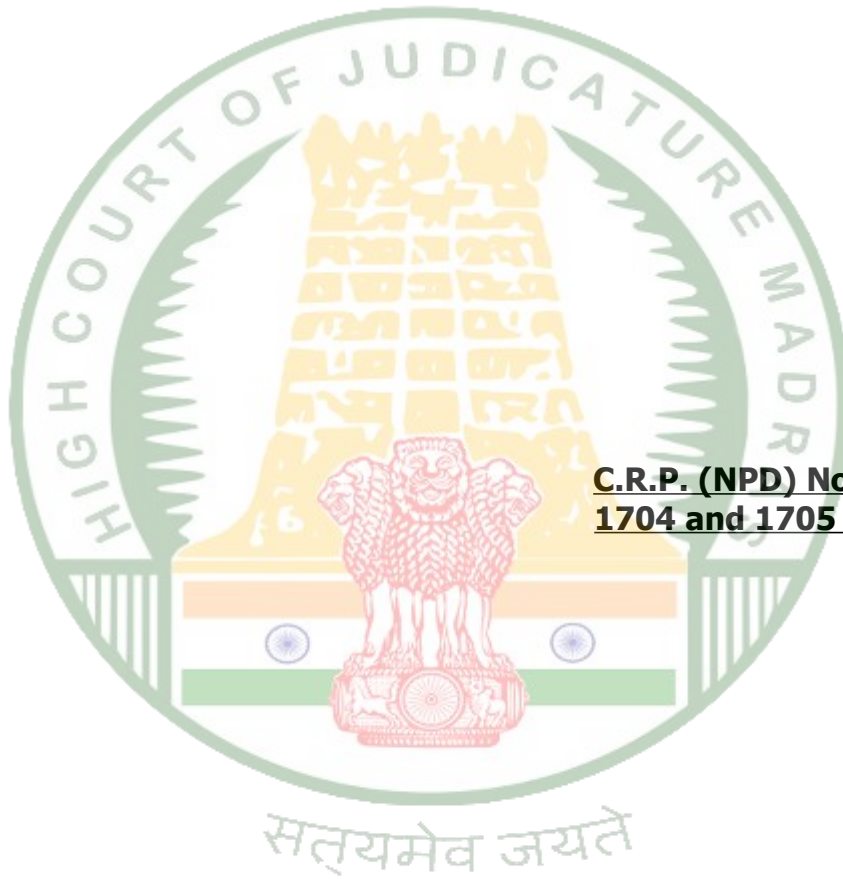
2.The District Munsif,
Perambalur.



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M. DURAISWAMY, J.

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**C.R.P. (NPD) Nos.1703,
1704 and 1705 of 2011**

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