



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09..12..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.3432
and C.M.P.Nos.24588 and 24589 of 2019
and

Civil Revision Petition No.3434 of 2019
and C.M.P.Nos.24591 and 24595 of 2019

1.Lakshmi
2.Karuppusamy
3.Sempulisamy

.. Petitioners in both CRPs

-Versus-

K.Chitra

..Respondent in CRP 3432/2019

T.S.Karupppannan

..Respondent in CRP 3434/2019

Petition filed under Article 227 of the Constitution of India, praying to direct the learned Subordinate Judge, Bhavani to number the interlocutory application in I.A. CFR No.5699 and 5700 of 2019 in O.S.No.42 and 44 of 2012 and decide the petition on merits instead of continuously returning the same.

For Petitioner : Mr.N.Manoharan for
petitioners in both CRPs

For Respondent(s) : Mr.Kaithamalai Kumaran for
respondent in both CRPs

COMMON ORDER

These revision petitions have been filed seeking a direction to the learned Subordinate Judge, Bhavani, to number the interlocutory applications filed by the petitioners seeking to forward the disputed signatures for comparison with the admitted signature of the author of the disputed promissory notes by a hand writing expert and to offer his opinion and thereafter to decide the same on merits.

2. The respondent herein filed the suit in O.S.No.42 of 2012 for recovery of money due on a promissory note against the legal heirs of the alleged borrower. Earlier, the petitioners filed similar applications which was allowed. But, the hand writing expert could not offer any opinion on the disputed signature.



Therefore, the petitioners filed fresh applications for the similar relief with a request to forward the disputed signature for opinion by another hand writing expert. Those applications have not yet been numbered by the court below on the ground that already the petitioner filed similar applications and the same were already dismissed. When the hand writing expert had already submitted his report stating that he was not able to form any opinion due to non-availability of the contemporaneous documents to compare with the disputed document, the petitioners cannot maintain fresh applications for the similar relief.

3. I have heard the learned counsel for the petitioners and the learned counsel for the respondent and also perused the records carefully.

4. The petitioners had earlier filed similar applications for expert opinion and the same were rejected. Challenging the dismissal of the applications, they filed revision petitions in in C.R.P.Nos.4831 of 2015 and 17 of 2016 and this court by common order dated 07.11.2016 disposed of both the revision petitions with a direction to the court below to forward the alleged promissory note containing the disputed signature for comparison with the admitted signature by a hand writing expert and for opinion. Accordingly, the documents were also forwarded for expert opinion. The hand writing expert, who undertook the task of comparison, however, could not form any opinion. The opinion given by the hand writing expert is as follows:-

"The documents received along with the letter first cited on 13.04.2018 through Tr.P.Sakthivel, Advocate Commissioner, with seals intact, were carefully and thoroughly examined by the undersigned experts in this department but on the basis of present material, it is not possible to offer any reliable opinion regarding the authorship on the red enclosed signatures stamped and marked Q1 to Q4 on a comparison with the red enclosed signatures similarly stamped and marked A1 to A6."

5. Since the expert could not form any opinion on the disputed signatures, the petitioners have come up with fresh applications for similar reliefs. The court below have not yet numbered the fresh applications for expert opinion on the ground that the petitions are not maintainable as already the hand writing expert had stated that he was not able to form any opinion regarding the authorship of the disputed promissory note.



6. Though the expert had earlier stated that he could not give any reliable opinion regarding the authorship on the disputed promissory notes, he had not assigned any specific reasonings in support of his conclusion. In the above circumstances, second applications for similar reliefs are certainly maintainable and there cannot be any bar in law for the same. That apart, the admitted signatures sought to be compared with the dispute signatures are only of contemporary period. In the above circumstances, the court below ought to have entertained the second applications for expert opinion, but, it kept both the applications pending without numbering the same raising query on the maintainability. Thus, in the considered opinion of this court, it is desirable to direct the court below to number the applications for expert opinion and to proceed with the same in accordance with law.

In the result, both the civil revision petitions are allowed and the learned Subordinate Judge, Bhavani, is directed to number the applications for expert opinion and proceed with further in accordance with law. No costs. Consequently, connected CMPs are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

kmk

To

1.The Subordinate Judge, Bhavani, Erode District.

+2cc to M/s.S.Kaithamalai Kumaran,Advocate, SR. No. 102833,102832

+2cc to M/s.N.Manokaran, Advocate, SR. No. 102676

Civil Revision Petition
Nos.3432 and 3434 of 2019

BP (CO)
RMP (13/07/2020)