



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.R.P. (MD) (PD)No.330 of 2012

and

M.P. (MD)No.1 of 2012

WEB COPY

Sonaiah @ Balasubramani

:Petitioner/Defendant/
Petitioner

vs.

Rajendran

:Respondent/Plaintiff/
Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.190 of 2010 in O.S.No.109 of 2008 on the file of the District Munsif Court, Paramakudi, dated 10.06.2010.

For Petitioner

:Mr.A.Sivaji

For Respondent

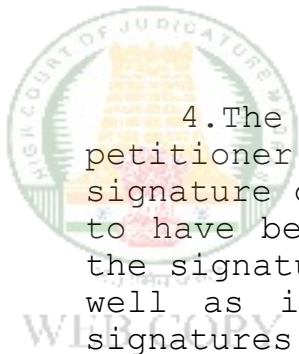
:No Appearance

ORDER

This petition has been filed challenging the order passed by the Court below to direct the petitioner to submit contemporaneous documents in order to send the same along with the pro-note to the expert to get an opinion on the signature found in the pro-note.

2.The respondent has filed a suit before the Court below for recovery of money based on a pro-note. The petitioner has denied the signature found in the pro-note and according to him, the signature has been forged. Therefore, the petitioner took out an application to send the pro-note to the expert to get an opinion. The respondent did not seriously object the application and he had, in fact, stated in the counter that the signature found in the pro-note can be compared with the signature found in the written statement and vakalat filed on behalf of the petitioner before the Court below.

3.The Court below, while considering the application, has taken note of the stand taken by the respondent and has directed the petitioner to submit contemporaneous document containing the signature of the petitioner, during the relevant period, when the pro-note is alleged to have been executed by the petitioner. The Court had also directed the petitioner to deposit a cost of a sum of Rs.6,000/- payable to the Advocate Commissioner in order to take the documents to the expert.



4.The learned Counsel for the petitioner submitted that the petitioner was not in possession of any documents containing his signature during the concerned period, when the pro-note was alleged to have been executed. The learned Counsel further submitted that the signature of the petitioner is found in the written statement as well as in the vakalat filed before the Court below and those signatures can be compared with the signature found in the pro-note. The learned Counsel further submitted that even the respondent did not have any objection to compare the signature in this manner.

5.Though the respondent has been served notice and his name has also been printed in the cause list, there is no representation for the respondent.

6.Taking into consideration the facts and circumstances of the case, in the absence of any contemporaneous documents available with the petitioner, it will be safer to compare the signature with any admitted documents, in which the signature of the petitioner is found. Therefore, the Court below is directed to send the pro-note along with the vakalat and the written statement filed by the petitioner before the Court below, in order to compare the signature found therein. It is reported that the cost has already been paid by the petitioner.

7.In the result, the Civil Revision Petition is allowed and the Court below is directed to proceed further in accordance with the directions given by this Court herein above and get the expert's opinion at the earliest possible time. The Court below shall complete the proceedings in O.S.No.109 of 2008 within a period of four months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

cmr

To

The District Munsif, Paramakudi.

C.R.P. (MD) (PD)No.330 of 2012

06.09.2019

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