



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2019

CORAM

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THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.484 of 2019

and

C.M.P. (MD) No.2426 of 2019

1.Abithabi Khan

2.Imran

3.Mohammed Salman

:Petitioners

Vs.

Pathanjaliselvan

:Respondent

Prayer:- Civil Revision Petition is filed, under Section 227 of the Civil Procedure Code, to set aside the fair and decreetal order dated 25.09.2018 made in I.A.No.67 of 2017 in O.S.No.193 of 2016 on the file of the III Additional District and Sessions Judge, Thiruchirappalli and allow this Civil Revision Petition.

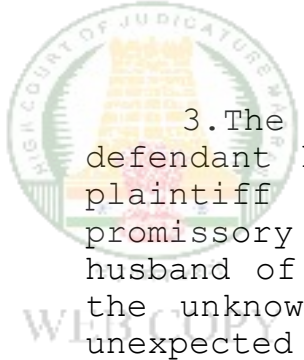
For Petitioners : Mr.S.Deenadhayalan

ORDER

The civil revision petition has been preferred by the petitioner against the fair and Decreetal passed in I.A.No.67 of 2017 in O.S.No.193 of 2016 on the file of the III Additional District and Sessions Judge, Thiruchirppalli.

2.The respondent herein as plaintiff filed the suit in O.S.No.193 of 2016 against the petitioners for recovery of money on the foot of a pro note. S.Thirajudden, who is the first defendant husband and the second and third defendants are sons of S.Thirajudeen. On 27.07.2014, due to urgent expenses, the said Thirajudeen borrowed a sum of Rs.12,00,000/- from the plaintiff, in which, he executed a promissory note stating that he repay the same with interest 12%.

2.I.A.No.67 of 2017 in O.S.No.193 of 2016 was filed by the petitioners herein to sent the petition mentioned documents for expert opinion, since he has very much disputed the pro note/ Ex.A1 which is a forged one.



3.The petitioners contended that the husband of the first defendant has not executed the promissory note in favour of the plaintiff and the first defendant did not sign in any paper or promissory note and further, the first defendant as well as the husband of the plaintiff did not know the plaintiff at all. He is the unknown person. Further, the petitioner contended that after unexpected death of her husband, the plaintiff has filed a suit with an evil motive. Further, the petitioners claiming Ex.A1 is a forged one and to compare the signature of S.Thirajudeen found in the promissory note is not her husband signature. The petitioners also filed five documents relating to the year 2012. The first document contains the signature of the first defendant's husband which is the certificate of registration of the vehicle and the other three documents are premium payment receipt which contains the signature of the first defendant's husband and the last documents is the driving license.

4.In the counter statement, the respondent/plaintiff in the said suit, contended that the said documents filed by the defendants is only to vexatious motive and the said documents filed for comparing the said signature are also not proper documents. The deceased was an employee in the BHEL and he has availed loan for his banker, whereas, the said documents were not produced by the petitioners to compare the signature. Hence, the respondent/plaintiff objected the said documents filed by the petitioner for comparing the signature.

5.After observing the contentions raised by both side, the trial Court accepted the signature that is affixed by the deceased in the certificate of registration of the vehicle and the driving licence. Hence, the said two documents are sufficient for comparing the signature and the two documents were not considered by the trial Court. When the signature of the deceased was very much disputed by the defendant, the trial Court is of the opinion that out of the five documents only two documents are taken for consideration. Since the deceased is also an employee in the BHEL, the trial Court is of the opinion that the two documents that is filed taken for consideration, are not sufficient.

6.Heard the learned counsel for the petitioner and perused the materials available on record.

7.Further, it is contended by the respondent that the deceased who was an employee, can very well produce the some other relevant document and he is relying upon Ex.A1/Pro note as a forged one. The petitioner has not filed the necessary documents containing temporary signature of the deceased. The said petition was dismissed on 25.09.2018. However, a direction given by the Trial Court that the said documents required for comparison are not filed by the petitioner and only two documents were filed at a different period.



8. In view of the above observations, the order of the trial Court is very much reasonable based on the facts and issues in the said suit. Hence, this civil revision petition is dismissed. It is for the petitioners to furnish the necessary documents and proceed with the case. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writ)

// True Copy //

Sub Assistant Registrar (CS-)

To

The III Additional District and Sessions Judge,
Thiruchirappalli.

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-59734[F] dated 09/04/2019)

C.R.P. (PD) (MD) No.484 of 2019
08.04.2019

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