



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2019

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP(MD) No.586 of 2019

and

C.M.P. (MD) No.2896 of 2019

S.Rathinam

... Petitioner/Petitioner/Defendant

vs.

K.Soundharya

... Respondent/Respondent/Plaintiff

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 14.12.2018 passed in I.A.No.437 of 2017 in O.S.No.173 of 2014 on the file of the learned Sub Judge, Srivilliputhur, Virudhunagar District.

For Petitioner : Mr.G.Ramanathan

ORDER

This Civil Revision Petition has been filed to set aside the order dated 14.12.2018 passed in I.A.No.437 of 2017 in O.S.No.173 of 2014 by the learned Subordinate Judge, Srivilliputhur, Virudhunagar District.

2.Before the trial Court, the petitioner herein is the defendant and the respondent herein is the plaintiff. For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.I.A.No.437 of 2017 was filed by the defendant in the suit in O.S.No.173 of 2014. The defendant in his affidavit contended that he has not received a sum of Rs.3,50,000/- from the plaintiff on 29.08.2011 and regarding the same a document was filed by the plaintiff and the same is a fabricated one and hence, the signature in the said document does not belong to him and further, the two witnesses, namely, Krishnaveni and Marisamy, have not signed in the same. If the signature of the plaintiff as well as the defendant in the registered sale deed dated 19.05.2009 and in the first sale deed dated 10.09.2003 is compared, the signature in the document dated 29.08.2011 can be proved.

4. Already I.A.No.1017 of 2015 filed by the defendant to seek expert opinion regarding the admitted document and disputed document which was dismissed by the trial Court on merits, against which, the defendant has filed C.R.P.(MD) No.780 of 2017 and the same has been dismissed with an observation that if the application is filed by the defendant, it is for the trial Court to consider the nature of the admitted document sought to be compared with the disputed document and to pass necessary orders.

5. It is the contention raised by the defendant that now he is filing the documents to compare his signature in the disputed document dated 29.08.2011. The said documents were filed for comparing the signature found in R.C.O.P.No.4 of 2012 and in R.C.A.No.9 of 2015.

6. The plaintiff has made strong objection by stating that in I.A.No.1017 of 2015, the defendant is making his signature in a different way at various point of time. It is the observation made in the order passed in I.A.No.1017 of 2015 that " மனுதாரரின் கையெழுத்தை ஒப்பிட்டுப் பார்த்துதான் மனுதாரர் ஒவ்வொரு ஆவணத்திலும் ஒவ்வொரு மாதிரியாக கையெழுத்து செய்கிறார் என முடிவு செய்து மனுவை தள்ளுபடி செய்துள்ளது. அதனால் மீண்டும் அதே ஆவணங்களில் உள்ள கையெழுத்தை ஒப்பிட்டுப் பார்த்து உத்தரவிட தேவையில்லை." Hence, the signature made in the said R.C.O.P., is during the year of 2015.

7. The trial Court observed the facts of the case, the signature found in the various documents filed in the said R.C.O.P. and in the said R.C.A. and held that he is in the habit of signing in different ways in different time. The trial Court discussed the same elaborately.

8. The defendant has not filed any document for the contemporary period and hence, the purpose, for which, the defendant filed a petition to compare the signature will not serve any purpose if the defendant file any document containing his signature during the year of 2015. The disputed document is of the year 2011 and the petition filed for comparing the signature is of the year 2012. Hence, the order of the trial Court is very much reasonable, which does not warrant any interference of this Court.

9. This Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //



To

The Sub Judge,
Srivilliputhur,
Virudhunagar District.

+1 CC to M/s.G.RAMANATHAN, Advocate (SR-56226[F] dated
25/03/2019)

MM

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