



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P. (PD) (MD)No.626 of 2014

and

M.P(MD)No.1 of 2014

Baskaran

... Petitioner

vs.

Ganasekaran

... Respondent

**PRAYER:** Petition filed under Article 227 of the Constitution of India, against the order and decree dated 22.01.2014 made in I.A.No.280 of 2013 in O.S.No.84 of 2011 on the file of the Additional Sub Court, Kumbakonam, Thanjavur.

For Petitioner : M/s.G.Gomathi Sankar  
For Respondent : Mr.A.Selvam

**ORDER**

This Civil Revision Petition is filed in order to challenge the order dated 22.01.2014 in I.A.No.280 of 2013 in O.S.No.84 of 2011. The said I.A. was filed by the revision petitioner, who is the defendant in the suit, under Order 26 Rule 10(A) read with Section 151 of the Code of Civil Procedure, to compare the signatures of the defendant in Exhibits X1 to X3 with the signature in Ex.A1 (the suit pro-note) through a handwriting expert.

2.I heard the learned counsel for the revision petitioner and the learned counsel for the respondent.

3.The learned counsel for the revision petitioner submitted that even before filing of the suit, in response to the notice, dated 15.07.2011, the revision petitioner sent a reply dated 20.07.2011, wherein it was stated that the revision petitioner did not borrow money from the respondent/plaintiff and, therefore, did not execute a promissory note in favour of the respondent/plaintiff. It is further submitted that the respondent refused to provide a photocopy of the said pro-note inspite of the request for the same. Subsequently, when the trial commenced in the suit, the respondent/plaintiff marked the said pro-note as Ex.A1 and the



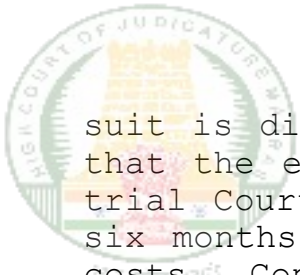
revision petitioner had access to the pro-note only at that juncture, according to the learned counsel for the revision petitioner, and the Interlocutory Application came to be filed in the said circumstances.

4. In response, the learned counsel for the respondent submitted that the revision petitioner could have filed documents containing admitted signatures of the revision petitioner/defendant at an earlier point of time, if he intended to prove that the signature in the pro-note is not genuine. Instead, the revision petitioner filed I.A.No.209 of 2013 in December 2013 after the closure of the evidence of the petitioner. In fact, the learned counsel for the respondent submitted that the documents, which are sought to be referred for the opinion of an expert namely, Ex.X1 to X3, were not filed by the revision petitioner/defendant but were marked at the instance of the respondent/plaintiff through the witness of the Punjab National Bank. Therefore, he submitted that the said Interlocutory Application was filed to protract the proceedings in the suit. He also referred to the impugned order at paragraph Nos.5 and 11 and pointed out that the Court recorded a finding that the revision petitioner had successfully delayed the suit proceedings for two years and filed the petition at the fag end of the trial. He further submitted that no useful purpose would be served by sending Ex.X1 to X3 for the opinion of the expert and that the revision petition is liable to be dismissed.

5. The pleadings, impugned order and oral submissions were considered carefully.

6. On perusal of the impugned order, it is seen that the trial Court entered a finding that an expert's evidence is only an additional piece of evidence to be considered along with other evidence. In addition, it is recorded by the trial Court that the petitioner did not file any documents containing his admitted signature and request for comparison of the same with the signature in the pro-note, namely, Ex.A1. I also examined the said Exhibits X1 to X3 to ascertain whether the said documents are contemporaneous when compared to the pro-note. It is seen that Exhibits X1 and X3 are dated 31.07.2002 and Ex.X2 does not contain a date. Therefore, the said documents are not contemporaneous with the pro-note, which is dated 05.05.2010.

7. For all the reasons aforesaid, I am of the view that the order of the trial Court is not liable to be interfered with. However, if the revision petitioner has any authenticated documents, which are of the year 2010 or reasonably contemporaneous thereto, leave is granted to the revision petitioner to file an appropriate application before the trial Court. This Civil Revision Petition is disposed of on the above terms. It is also seen that the suit is of the year 2011. Therefore, it is just and necessary that the said



suit is disposed of within a specified time. In view of the fact that the evidence of the parties had already been concluded, the trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )

To

1.The Additional Sub Court,  
Kumbakonam,  
Thanjavur.

2.The Section Officer,  
V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai. (2)

+1 CC to Mr.A.SELVAM, Advocate SR-79585.

+1 CC to Mr.G.GOMATHI SANKAR, Advocate SR-79649.

**Order made in**

**C.R.P. (PD) (MD) No.626 of 2014**  
**and**

**M.P (MD) No.1 of 2014**

**02.08.2019**

CS(22.08.2019) 3P 6C