

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.No.4619 of 2013

and

MP.No.1 of 2013

R.Premananth ... Petitioner/Defendant

Vs.

Premabharathi ...Respondent/Plaintiff

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.10.2013, passed in I.A.No.97 of 2013 in O.S.No.26 of 2012, on the file of the learned District Munsif cum Judicial Magistrate Court, Valangaiman.

For Petitioner : Mr.R.Rajaramani

For Respondent : No appearance

O R D E R

This Civil Revision Petition has been filed by the petitioner against the order dated 05.10.2013 passed by the learned District Munsif-cum-Judicial Magistrate, Valangaiman, in I.A.No.97 of 2013 in O.S.No.26 of 2012.

2 The defendant in the above said suit in O.S.No.26 of 2012 is the revision petitioner herein.

3 The respondent herein/plaintiff has filed the above said suit in O.S.No.26 of 2012 for recovery of money on the alleged documents. In the said suit, the defendant has filed written statement stating that the documents relied upon by the plaintiff is not a promissory-note, since there is a clause to pay, was made for additional period of two years and therefore, it is inadmissible in evidence and accordingly, the defendant/revision petitioner has filed an application in I.A.No.97 of 2013 to reject the documents relied on by the plaintiff on the ground that it is inadmissible in evidence.

4 The Trial Court has agreed the condition of the plaintiff that though the caption of the document may be styled as a different one, however, it could be treated as a receipt and hence, on payment of Stamp Duty Penalty that the same can be received as evidence and relied upon the decision

reported in 2006 (3) LW 926 - [B.Rajamanickam Vs. R.Rathinambal].

5 Accordingly, the trial Court has rejected the said I.A.No.97 of 2013, holding that though the alleged pro-note is not a promissory note, however, it can be treated as a receipt or bond. However, in the operative portion of the documents, it is directed the petitioner in I.A.No.97 of 2013 viz., the defendant to pay Stamp Duty and penalty therefor. Such observation is nothing erroneous since a person, who relied upon the document, has to be called upon to pay Stamp Duty and Penalty as required under Section 35 of the Indian Stamp Act, in respect of the insufficiency of stamped documents and hence, the operative portion directing the petitioner in IA.No.97 of 2013, to pay Stamp Duty Penalty, is hereby ordered to be deleted and order dated 05.10.2013 made in I.A.No.97 of 2013 is partly set aside to the extent indicated above and partly allowed for receipt of the document on payment of Stamp Duty and Penalty by the plaintiff.

6 With these observations, the Civil Revision Petition is partly allowed and the trial Court is directed to frame issues within a period of three weeks from the date of receipt of a copy of this order and complete the Trial within a period of twelve weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed. Note to the Registry: The Registry is directed to despatch the order copy within a period of two weeks.

Sd/-
Assistant Registrar(CO)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

The District Munsif cum Judicial Magistrate Court,
Valangaiman.

+lcc to Mr.VR.Annagandhi, Advocate SR.No.7766

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RP (CO)
GMY (13/02/2020)