

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) No.257 of 2018
and CMP No.1438 of 2018

M.Subramani

.. Petitioner

Vs.

Kavitha

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 15.11.2017 in I.A.No.442 of 2017 in O.S.No.45 of 2011 on the file of District Munsif Court, Vaniyambadi.

For Petitioner : Mr. R.Subramanian

For Respondent : Mr.Udayakumar
for M/s.Karan & Uday

ORDER

This matter is taken up for hearing through Video-Conferencing.

This Revision is by the first defendant in OS No.45 of 2011 challenging an order of the Trial Court dismissing his application for rejection of a compact disk introduced in evidence by the plaintiff. The dispute is relating to paternity. A compact disk was sought to be produced in evidence and the same was admitted and marked as Ex.A10.

2. Objecting to the reception of the said compact disk and seeking its rejection on the ground that the provisions of Section 65B of the Evidence Act, has not been complied with, the first defendant filed IA No.442 of 2017.

3. The said application was dismissed by the Trial Court concluding that the document *per se* is not inadmissible in evidence, if at all there is any defect it is only with reference to the manner of proof which can be cured even at the later stage. Aggrieved the defendant has come up with this Revision.

4. I have heard Mr.R.Subramanian, learned counsel appearing for the petitioner and Mr.Udayakumar, learned counsel appearing for the M/s.Karan & Uday for the respondents.

5. While Mr.R.Subramanian, learned counsel appearing for the petitioner would vehemently contend that a compact disk which is a document which is an electronic record ought not to be received in evidence except in strict compliance with Section 65B of the Evidence Act. He would also place reliance on the recent judgment of the Hon'ble Supreme Court in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and others*, reported in **2020 (5) CTC 200**. The confusion that was prevailing in respect of electronic documents has been set right by the Hon'ble Supreme Court in the said decision.

6. Mr.Udayakumar, learned counsel appearing for the respondent would submit that they have in fact produced the certificate under Section 65B on 25.01.2018 before the Trial Court. He would further submit that the said Certificate itself will be in compliance with the requirements of Section 3/5

68B as pointed out by the Hon'ble Supreme Court in the judgment cited supra.

7. Now that the Certificate itself has been filed before the Court, I do not see any reason to interfere with the order of the Trial Court dismissing the application for rejection of Ex.A10. However, I make it clear that the Trial Court shall ensure strict compliance with the requirements of law has laid down by the Hon'ble Supreme Court in the above judgment while deciding on the proof of the document in question.

8. With the above observation, the Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

22.09.2020

jv

Index: No

Internet: Yes

Speaking order

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R.SUBRAMANIAN, J.

jv

To

1. The District Munsif Court,
Vaniyambadi.
2. The Section Officer,
V.R.Section, High Court of Madras.



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