

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P. (PD) No.3415 of 2019
and C.M.P.No.22471 of 2019

Ramakrishnan Asari

...Petitioner

Vs

Venkatesan Chettiyar

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the fair and decreetal order dated 29.03.2019 passed in I.A.No.69 of 2019 in O.S.No.48 of 2009 on the file of the Subordinate Judge, Neyveli and allow the Civil Revision Petition.

For Petitioner : Mr.K.Newlin Frederick

For Respondent : M/s.R.Meenal

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 29.03.2019 passed in I.A.No.69 of 2019 in O.S.No.48 of 2009 on the file of the Subordinate Judge, Neyveli.

2. The respondent herein viz., Venkatesan Chettiyar is the plaintiff in the suit in O.S.No.48 of 2009, which has been filed for recovery of money based on three promissory notes dated 11.07.2005 for Rs.30,000/- dated 05.06.2006 with Rs.1,00,000/- dated 20.11.2006 for Rs.42,000/- against the defendant/Ramakrishnan Asari (Revision petitioner). The defendant filed the written statement denied the borrowing of amount and contended that the above said three promissory notes were obtained by coercion and the promissory notes are not supported by consideration. Therefore, the plaintiff filed the petition in I.A.69 of 2019 under Order 18 Rule 1 CPC to direct the defendant to begin his evidence first. The trial Court considering the nature of the suit allowed the petition. Aggrieved by this order this Revision Petition is filed.

3.The learned counsel for the petitioner/defendant in the suit submitted that the order of the trial Court is contrary to law and facts of the case. The plaintiff cannot compel the Court to direct the defendant to begin his evidence. The defendant had not admitted the entire facts of the case. The trial Court ought to have dismissed the petition and re-iterated other grounds in the Revision Petition and thus pleaded to set aside the order of the trial Court and allow the Revision Petition.

4. Learned counsel for the respondent supported the order of the trial Court and pleaded to dismiss the Revision Petition.

5. Heard the learned counsel for both parties and perused the materials available on record.

6. The plaintiff filed the suit for recovery of money from the defendant based on three promissory notes as stated above in the written statement filed by the defendant. He contended that the above said three promissory notes were obtained by coercion. Further, the promissory notes

are not supported by consideration. The defendant did not deny his signature in the promissory note. Therefore, the presumption under Section 118 of Negotiable Instrument Act operates in favour of the plaintiff. Onus of proof of examination that the promissory notes are not supported by consideration lies upon the defendant. In such case, the Court would direct the defendant to begin his evidence first in similar occasion. In the decision reported in ***Barma Vs. Rukiya Bivil, AIR 2004 MAD 243(245)***, this Court considered the specific performance suit. Therefore, the order of the trial Court is legally sustainable. I find no error in the order and hence, confirm the order of the trial Court.

7. Accordingly, the Civil Revision Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

07.12.2020

Index: Yes/No

Speaking Order: Yes/No

vsn

To

The Subordinate Judge, Neyveli

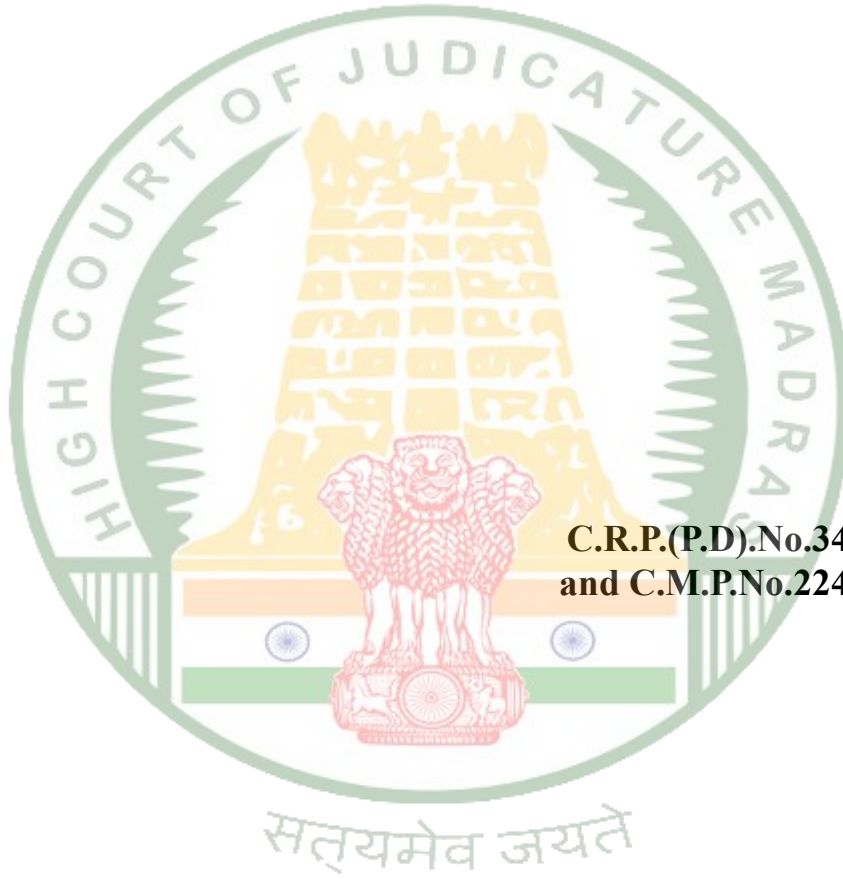


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C.R.P.(PD) No.3415 of 2019

V.SIVAGNANAM.J,

vsn



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and C.M.P.No.22471 of 2019**

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