

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 3791 of 2018

and

C.M.P.No. 21114 of 2018

1.Mithiles Sharma

2.Janaki

3.Kowsal Kumar

...Petitioners

Vs.

Subbarayan

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 06.10.2018 passed in I.A.No. 134 of 2018 in O.S.No. 86 of 2011 on the file of the Sub-Court, Madurantagam.

For Petitioners : Mr.K.Kovi Ganesan

For Respondent : Mr.P.Valliappan

ORDER

The defendants in O.S.No. 86 of 2011 have come up with this revision challenging the order allowing an application seeking comparison of the signatures found in the suit promissory notes with the admitted signatures by the expert.

2. The suit is one for recovery of sum of Rs.5,03,797/- on the strength of seven promissory notes executed by the husband of the first defendant and father of the defendants 2 and 3, one Mr.Dharmendrakumar. The defendants filed a written statement denying execution of all the promissory notes by Dharmendra Kumar. After examination of the first defendant as D.W.1, the plaintiff has come up with an instant application seeking to send the documents for comparison of signatures to the Government expert. The Trial Court had allowed the said application.

3. I have heard Mr.K.Govi Ganesan, learned counsel for the petitioners and Mr.P.Valliappan, learned counsel for the respondent.

4. Mr.K.Govi Ganesan, learned counsel for the petitioners would vehemently contend that this application is nothing but a ruse to delay the proceedings and this Court in its order dated 23.09.2016 made in C.R.P.No. 1919 of 2016 has already found that the plaintiff is guilty of delaying the proceedings. On the strength of the above observation, the learned counsel for the petitioners would fault the Trial Court for allowing the application. I do not think the said observation would stand in the way of the plaintiff from seeking a reference of the disputed signature for comparison with the admitted signatures. The Trial court had felt necessity for such examination after it had, had benefit of the evidence of P.W.1 and D.W.1. I do not think the Trial court can be faulted for allowing the application seeking comparison of the signatures by an expert which is only another mode of proof of documents. I do not think the Courts will be justified in denying such opportunity to the plaintiff or defendant in an appropriate case.

5. In the case on hand, the defendants have denied the execution of the promissory notes by Dharmendra Kumar, who is no more. Therefore,

it is all the more necessary that the expert opinion is taken. For the foregoing reasons, this civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

15.12.2020

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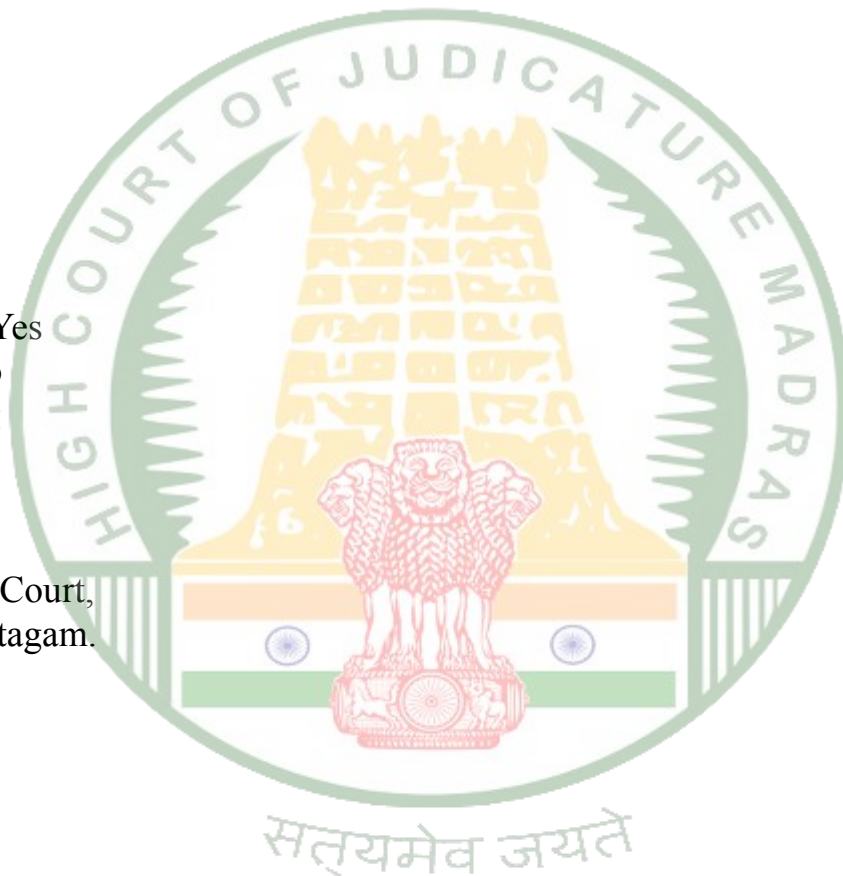
Internet:Yes

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Speaking

To:

The Sub-Court,
Madurantagam.



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R.SUBRAMANIAN, J.

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