



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2020

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD)No.541 of 2020

WEB COPY

P.Sathiyamoorthi

: Petitioner/Petitioner/Defendant

.. Vs ..

N.Periyasamy

: Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.482 of 2019 in O.S.No.03 of 2019, dated 28.01.2020 on the file of the Principal District Court, Karur.

For Petitioner

:Mr.K.Suresh

For Respondent

:Mr.V.Sukumar

ORDER

This Civil Revision Petition is directed against the order passed by the learned Principal District Judge, Karur, in I.A.No.482 of 2019 in O.S.No.03 of 2019, dated 28.01.2020.

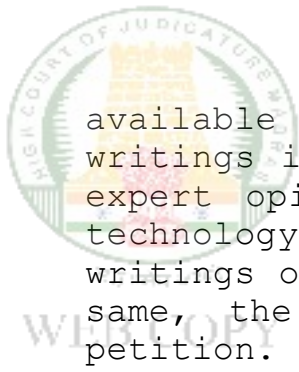
2.Heard the learned Counsel appearing for the petitioner and the learned Counsel for the respondent.

3.The revision petitioner is the defendant in the suit in O.S.No.03 of 2019. The said suit was filed for recovery of money to the tune of Rs.31,47,550/- based on two promissory notes alleged to have been executed by the defendant in the suit in favour of the plaintiff for a sum of Rs.23,00,000/- one for a sum of Rs.11,00,000/- and another for a sum of Rs.12,00,000/-.

4.The revision petitioner in the written statement filed by him stated that the two promissory notes produced by the plaintiff have been fabricated by altering the figures of Rs.1,00,000/- and Rs.2,00,000/- by pre-fixing the number 1 before the figures in both promissory notes. In other words, the case of the defendant is that the promissory notes executed by the defendant for a sum of Rs.1,00,000/- and Rs.2,00,000/- respectively have been altered, as if the defendant had executed the two promissory notes for a sum of Rs.11,00,000/- and Rs.12,00,000/- respectively.

5.During the pendency of the suit, the defendant filed an interlocutory application in I.A.No.482 of 2019 in O.S.No.03 of 2019 for appointment of Advocate Commissioner to take the promissory notes to the Forensic Expert to ascertain the timings of writing of the numeral letters at the top of promissory notes. The interlocutory application was dismissed by the trial Court on

<https://hcses.com.sg/hcses/hcses/> there is no scientific method or technology



available with the forensic department to ascertain the timings of writings in any documents. Stating that sending of documents for expert opinion is a waste and useless exercise as there is no technology or scientific method to ascertain the timings of writings of letters, the petition was dismissed. Aggrieved by the same, the defendant in the suit preferred the above revision petition.

6.The learned Counsel for the revision petitioner submitted that the trial Court has committed a serious error in applying the ratio of judgment of this Court, without understanding the principles reiterated by Courts. The learned Counsel though admitted the position that there is no scientific method to find out the dates of writings by any scientific analysis of the ink, submitted that the science is developed to the extent of finding the difference in ink and the variance in timings by examining the documents. He also relied upon a judgment of this Court in ***Crl.R.C.No.173 of 2013*** in the case of ***Vijayamma vs P.Palani***, wherein, it has been held that the opinion of hand writing expert to ascertain which one was written first and which one was written next is possible and that a petition cannot be dismissed on the ground that there is no scientific methodology to ascertain the age of the ink.

7.Having regard to the position indicated by this Court referred to supra, this Court is fully convinced that an expert can ascertain, if a letter or number is introduced later in point of time. In the above circumstances, this Court is unable to sustain the order of lower Court dismissing the petition filed sending the documents for getting expert opinion.

8.As a result, this Civil Revision Petition is allowed and the order passed by the learned Principal District Judge, Karur, in I.A.No.482 of 2019 in O.S.No.03 of 2019, dated 28.01.2020, is set aside. The application in I.A.No.482 of 2019 in O.S.No.03 of 2019 stands allowed with a further direction to get report answering the questions whether any figure or number is introduced after the signing of the document. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To கமீஷனர்

1.The Principal District Judge, Karur.

2.The Section Officer-2 copies

V.R.Section,

Madurai Bench of Madras High Court, Madurai.

C.R.P.(PD)(MD)No.541 of 2020

15.09.2020

=
AVS(CO)

KM (24.09.2020) 3P 4C