



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Wednesday, the Twenty Second day of September Two Thousand Twenty One

PRESENT

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The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CMP(MD) . No.7845 of 2019
IN
CRP(MD) .2643 OF 2010

Sivanandam ... Petitioner/Respondent

Vs

1 Sethuraj (Died)

2 Girija Bai,

3 S.Balaji

4 S.Arunkumar ... Respondent/Petitioner

Prayer :-

Praying that Pleased to receive the petition mentioned documents as additional evidence in the CRP.

Prayer in CRP(MD).No.2643 of 2010:

to set aside the order made in R.C.A.No.29 of 2007 in R.C.O.P.No. 221 of 2002 on the file of the Rent Control Appellate Authority cum Principal Sub-Judge, Trichy dated 09.08.2010 in modifying the order made in R.C.O.P.No.221 of 2002 on the file of the Rent Controller cum Principal District Munsif, Trichy dated 28.11.2006 by allowing this Revision

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru./Ms. M.Saravanan. For N.C.Ashok Kumar, Advocate for the Petitioner and of Thiru./Ms. Veerakathiravan , Senior Counsel for Mr.N.Rahamathula for R2 & R4 Advocate for the respondents, this Court made the following order:

This Court by order dated 15.09.2021, has passed the following order:

"(i) Registrar (Judicial) is directed to keep the entire records alongwith the documents containing the disputed signatures of Sethuraj and the contemporary documents containing the signatures of the said Sethuraj referred to above in his safe custody in a sealed cover



for examination by the handwriting expert and send a communication to the Deputy Director, Regional Forensic Sciences Laboratory, Medical College Campus, Collector Office Road, Madurai with a copy of the above referred documents requesting the said Authority to depute a handwriting expert to this court on 22.9.2021 for comparing the signatures in those documents in his presence.

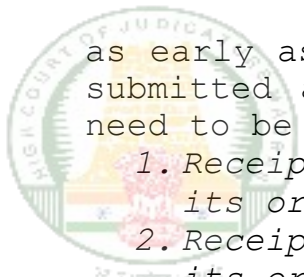
(ii) The handwriting expert shall give his Report to this court on or before 28.9.2021.

(iii) A copy of such Report may be served on the learned counsels for the parties."

2. Based on the above directions, the Registrar (Judicial), addressed a letter in Roc.No.23/2021/RJ/MB, dated 17.09.2021, to the Deputy Director, Regional Forensic Sciences Laboratory, Medical College Campus, Collector Office Road, Madurai, to depute a handwriting expert to be present before this Court on 22.09.2021, to compare the documents and to file a report. The Deputy Director, Regional Forensic Sciences Laboratory, Madurai, by letter dated 20.09.2021 in Lr.X.N.Dis/Doc/2021 has replied that the examination of documents in the Court premises will be more difficult for the following reasons:

- "The examination of signatures is not only confined to manual comparison. They have to be examined under various immovable and sophisticated instruments like **Video Spectral Comparator, Stereo Microscope**, etc., to detect the type of forgery. These instruments cannot be moved to the court premises. The instruments mentioned above are also used for other types of examination like **Superimposition, Indentation, Guidelines, Alterations, Additions, Transplantation, etc.** These examinations can only be carried out in the laboratory premises.
- Some occasions may arise to photograph the disputed and standard documents/signatures using several types of light sources like **Transmitted, Oblique, Ultraviolet and Infrared rays**. These facilities are not made available in the court premises. The above points are highlighted only to express the technical problems encountered in the examination of signatures/writings in the court premises.
- On preliminary examination of the documents sent along with the letter cited above, it is stated that **Original documents** are more preferable and suitable for document examination. Hence the Original documents of both the Disputed and the Admitted documents may kindly be procured and forwarded to this laboratory for the purpose of document examination and opinion."

Therefore, the Deputy Director has requested that necessary action may be taken to procure and send the original documents to the Laboratory, so as to enable them to complete the reporting process



as early as possible. In this regard, the Registrar (Judicial) has submitted a report and he has stated that the following documents need to be sent to the Forensic Laboratory:

1. Receipt dated 15.09.2007 marked as Exhibit R12 [along with its original]
2. Receipt dated 14.11.2012 marked as Exhibit R13 [along with its original]
3. Vakalat dated 18.11.2010 in C.R.P. (MD) No. 2643/2010 by Sethuraj
4. Deposition of the said Sethuraj as PW1 before the Rent Controller.
5. Original Registered Sale Deed in Document No. 835 of 2015 [Signature of Sethuraj as a witness to the said Sale Deed to be compared]

3. This Court in the judgment in **N. Chinnasamy vs. P. S. Swaminathan**, reported in **2006 (4) CTC 850**, has held that when examination of the disputed documents within the Court premises is not possible due to genuine difficulties expressed by the expert, the Court has to find out the alternative way of achieving the object for the purpose of doing justice and in such circumstances, the application has to be treated as an Application for an appointment of Advocate Commissioner in whose presence the examination of the disputed document has to be conducted by the Expert.

4. Therefore, it is necessary to appoint an Advocate Commissioner, who shall receive the documents from the Registry and take it to the Expert and the Expert has to conduct the investigation in the presence of the Advocate Commissioner.

5. By consent of both parties, this Court appoints **Ms. M. Aruna Rani**, [Enrolment No. 1518/2021], having address at No. 38, Pandiyan Nagar, Bye-Pass Road, Madurai - 625 016 [Mobile No. 8610740441] as Advocate Commissioner and the Advocate Commissioner is directed to take the documents, which are now in the custody of the Registrar (Judicial) to the Regional Forensic Sciences Laboratory, Medical College Campus, Collector Office Road, Madurai and produce it before the Deputy Director, who shall depute a Senior Expert to complete the investigation with regard to the documents and file his report. The investigation shall be done in the presence of the Advocate commissioner. The remuneration of the Advocate Commissioner is fixed at Rs. 40,000/- (Rupees Forty Thousand only). Counsel for both parties will pay Rs. 20,000/- (Rupees Twenty Thousand only) each to the Advocate Commissioner. The remuneration of the Advocate Commissioner shall be paid by the counsels on or before 27.09.2021. The Advocate Commissioner shall pay the expenses of the Expert and the parties shall reimburse the same to the Advocate Commissioner.

6. The Advocate Commissioner shall take the documents to the Regional Forensic Sciences Laboratory, Medical College Campus, Collector Office Road, Madurai on 27.09.2021 and file a report along



with the report of Expert before this Court on 04.10.2021.

Post this matter on 04.10.2021.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.The Rent Controller Cum Principal District Munsif,
Trichy.
- 2.The Rent Control Appellant Authority Cum Principal Subordinate
Judge, Trichy.

Copy to

- 1.M/s.M.Aruna Rani(En 1518/2021)
38,Pandian Nagar, Bye pass Road, Madurai-625 016
(Cell 8610740441) [with end]
- 2.The Registrar Judicial
Madurai Bench of Madras High Court, Madurai
- 3.The Director,
The Regional Forensic Sciences Laboratory,
Medical College Campus,
Collector Office Road,
Madurai.
- 4.Mr.N.C.Ashok Kumar (EN.No.1238/1997)
Mobile No.9842953605
- 5.Mr.R.Sundar, Advocate
- 6.Mr.Rahamadulla, Advocate
- 7.M/s. Veera Associates, K.K.Nagar,
Madurai.



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KB (28.09.2021) 5P 10C

ORDER DATED : 22/09/2021

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ORDER

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CMP(MD) . No.7845 of 2019
Giving direction and etc.
as stated within.