



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP PD(MD)No.654 of 2017

and

CMP (MD)Nos.2959 & 5884 of 2017

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1.A.Seethalakshmi

2.C.Uma

.. Petitioners/Petitioners

Vs.

Rajasekaran

... Respondent/Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 21.12.2016 passed in I.A.No.403 of 2016 in O.S.No.44 of 2013 by the 1st Additional Sub Court, Madurai (Melur Camp).

For Petitioners

: Mr.A.Arumugam

For Respondent

: Mr.J.Lawrance

for Mr.V.Venkatasamy

ORDER

The respondent herein/plaintiff has filed a suit against the petitioners/defendants for recovery of money in O.S.No.44 of 2013. During pendency of the said suit, the petitioners herein filed an application under Order 26 Rule 10-A CPC, Section 45 of the Indian Evidence Act and Section 151 CPC for sending the promissory note and cheque for comparison and to get expert opinion. The said petition was dismissed by the trial Court. Challenging the said order, the petitioners/defendants have filed the present Revision before this Court.

2.The learned counsel for the petitioners would submit that the alleged borrower died and the defendants are the legal heirs of the borrower and the suit was filed only against the legal heirs of the borrower Arumugam. The petitioners/defendants have clearly denied the signature of Arumugam and also the documents alleged to have been executed by him. Therefore, they filed an application to compare the signature of the said Arumugam with the admitted signature in the cheque and the disputed signature in the promissory note. The trial Court failed to consider the defence taken by the petitioners herein in the written statement filed before the trial Court and dismissed the petition, which warrants interference.

3.In support of the said contentions, the learned counsel for the petitioners relied on the decisions of this Court reported

<https://hcservices.ecourts.gov.in/hcservices/>



in 2011(1)MWN (Civil) 843 [M.A.Velappan V. Karthik Worms and others] and 2011 (2) MWN (Civil) 637 [K.R.Chinnasamy V. K.R.Chinnasamy].

4.The learned counsel for the respondent would submit that even in the plaint itself the respondent/plaintiff has clearly stated that the said Arumugam borrowed money and executed promissory note and during his life time, he has not repaid the money. After the life time of Arumugam, the respondent/plaintiff has filed the suit against the legal heirs of the said Arumugam and therefore, the defence taken by the petitioners/defendants that the signature of the Arumugam has been forged, cannot be accepted. The trial Court after considering the entire materials, has rightly dismissed the petition and the same does not require any interference by this Court.

5.Heard the learned counsel on either side and perused the entire materials placed before this Court.

6.Even though the petitioners are the defendants in the suit, they have admitted that the deceased Arumugam has given a blank cheque and promissory note to one Mayilvel for borrowing a sum of Rs.10,000/-. Subsequently the deceased Arumugam discharged the said loan amount, however, the said Mayilvel, did not return the blank cheque and promissory note and he forged the blank cheque and promissory note, which leads to filing of this suit. Therefore, they want to compare the signatures of the deceased Arumugam in the promissory note and cheque. However, the defendants have not come forward to compare the signatures of the said Arumugam in the promissory note and the cheque with any of the document, which bears his contemporaneous signature. Further, once they admitted that a blank cheque and promissory note were given to one Mayilvel and he only forged the same, no expert can give opinion that who has forged the blank cheque and who handed over the same to whom. Therefore, this Court does not find any perversity in the order passed by the trial Court.

7.There is no quarrel with the decisions referred to by the learned counsel for the petitioners. It is a settled proposition of law that each and every case has got its own merits. Considering the pleadings raised by the petitioners herein/defendants by way of written statement, this Court finds that the authorities cited by the learned counsel for the petitioners are not applicable to the present case on hand and the said decisions will not be helpful to the petitioners to decide the revision in their favour. Therefore, this Court does not find any merit in this Civil Revision Petition and the same is liable to be dismissed and accordingly it is dismissed. The trial Court is directed to dispose of the suit on merits, in accordance with the observations made in this order, regarding the



documents. No costs. Consequently, CMP(MD)Nos.2959 & 5884 of 2017 are closed.

Sd/-

Assistant Registrar

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

I Additional Sub Court, Madurai (Melur Camp).

+1 CC to M/s.J.LAWRENCE, Advocate (SR-11260[F] dated 12/03/2020)

+1 CC to M/s.A.ARUMUGAM, Advocate (SR-11200[F] dated 11/03/2020)

+1 CC to M/s.V.VENKATASAMY, Advocate (SR-11487[F] dated 13/03/2020)

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