

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

CRP. (PD) No.675 of 2021
and C.M.P. No.5821 of 2021

Ramaraj

... Petitioner

Vs.

Kuppusamy

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed by the learned III Additional Subordinate Judge, Coimbatore, in I.A. No.1 of 2020 in O.S. No.779 of 2006 on 08.01.2021.

For Petitioner : Mr. K.S.Kumar

For Respondents : Mr. S.Mukunth

for Sarvabhauman Associates

ORDER

This petition is filed to set aside the fair and decreetal order passed by the learned III Additional Subordinate Judge, Coimbatore, in I.A. No.1 of 2020 in O.S. No.779 of 2006 on 08.01.2021.

2. I.A. No.1 of 2020 was filed under Order XIII Rule 10(2) r/w. Section 151 CPC, for sending entire case bundle in C.C. No.900 of 2002 from the Judicial Magistrate Court II, Coimbatore. Reading of the affidavit filed in support of this petition shows that the respondent denies his signature in Ex.B5. The signature in A1 and B5 are different. The respondent is in a habit of changing his signature very often to suit his convenience. The signature in a cheque is the subject matter of the case in C.C. No.900 of 2002. The signature in the cheque and the Power of Attorney is admitted by him. They are totally different signature, though admitted as his signature. In the said circumstances, the petition was filed for sending the entire case records in C.C. No.900 of 2002. This petition was contested by the respondent by submitting his argument. The learned III Additional Subordinate Judge, Coimbatore, after considering the evidence of Handwriting Expert P.W.3 and on finding that nothing was asked about the difference in signature to the Handwriting Expert and also the reason for summoning the entire case records in not correct, dismissed the petition. Against the said dismissal, this Civil Revision Petition is preferred.

3. Learned counsel for the petitioner submitted that the respondent is in a habit of signing in a different manner to chose his convenience. Though he admitted his signature in the Power of Attorney deed dated 20.02.2004 and the

cheque concerned in C.C. No.900 of 2002, a bare look at this signature makes it clear that both the signatures are different in the manner of writing and style. Only for the purpose of proving that the respondent is in a habit of making different signatures at different point of time, chose to file a petition for summoning the entire case bundle in C.C. No.900 of 2002. However, he restricted his prayer during the course of his submission that the cheque alone may be summoned to compare the signature in the cheque and in the Power of Attorney deed.

4. Learned counsel for the respondent strongly opposed this petition on the ground that there is no dispute with regard to the fact that the respondent admitted his signature in the Power of Attorney deed dated 20.02.2004 and the cheque in C.C. No.900 of 2002. Only when there is dispute and denial with regard to one particular signature, the disputed signature can be sent for comparison of handwriting expert with the admitted signature. When the signature in Power of Attorney deed dated 20.02.2004, and the cheque concerned in C.C. No.900 of 2002, are admitted by the respondent, there is no reason for sending these documents for Handwriting Expert's opinion and for summoning the cheque and the entire documents in C.C. No.900 of 2002.

5. Considered the rival submissions and perused the records. Admittedly, the respondent admits his signature in the Power of Attorney deed dated 20.02.2004 and the cheque concerned in C.C. No.900 of 2002. As rightly pointed out by the learned counsel for the respondent that only when any one of the signatures is disputed, it can be compared with the admitted signature. That is not the case here. Therefore, the submission made by the learned counsel for the petitioner that the cheque in C.C. No.900 of 2002, has to be sent for comparison with the signature found in the Power of Attorney deed dated 20.02.2004, cannot be accepted. With regard to Ex.B5 signature, which is denied by the respondent, was sent to the opinion of the handwriting expert through Court. The handwriting expert was also examined as P.W.3. It is seen from his evidence, that he compared the disputed signature in Ex.B5, with the admitted signatures in Exs.A1, A3 and A5, and came to a conclusion that the person who signed in Ex.A1, A3 and A5 had not signed Ex.B5 signature. Thus, it is prima facie proved by the respondent that the signature in Ex.B5 is not that of him.

6. Therefore, the prayer for summoning the entire case bundle in C.C. No.900 cannot be entertained. If at all the petitioner wants any document, like

the cheque or any other document, he can very well obtain the certified copy of the document and produce before the Court, in accordance with law, in support of his case. If such an application is filed, the III Additional Subordinate Judge, Coimbatore, is directed to consider the same and grant certified Xerox copy of the document.

7. In this view of the matter, the fair and decreetal order of the learned III Additional Subordinate Judge, Coimbatore, in dismissing the petition in I.A. No.1 of 2020 in O.S. No.779 of 2006, is confirmed and this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.09.2021

Index: Yes / No
Speaking order / Non speaking order
bkn / jai

सत्यमेव जयते

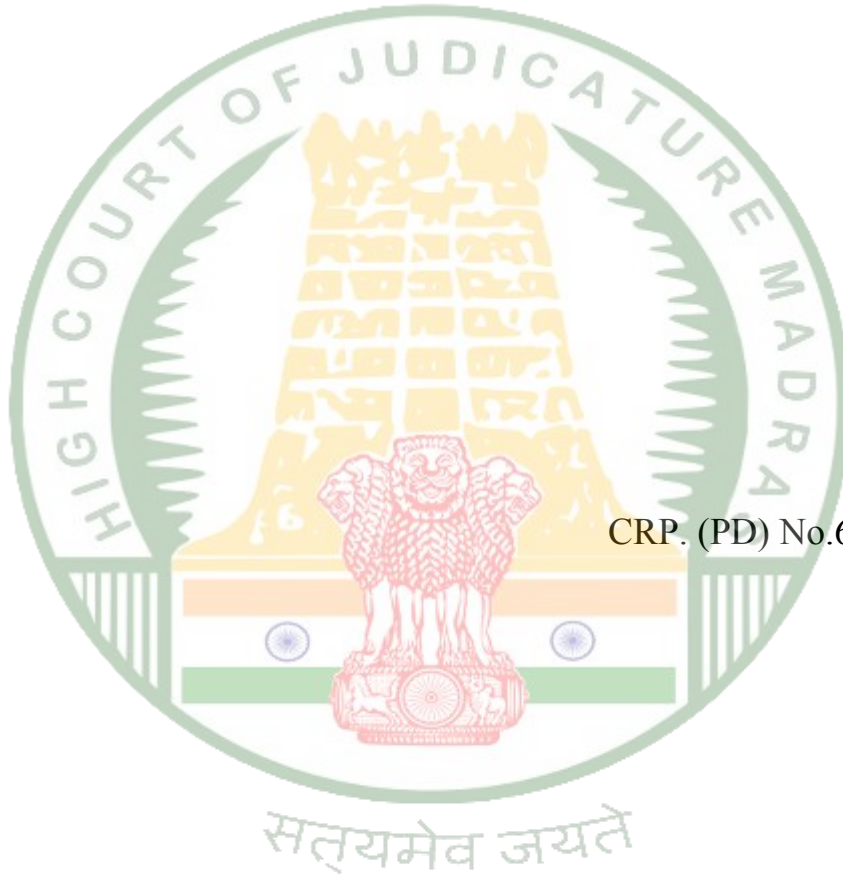
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Copy To:

The III Additional Subordinate Judge,
Coimbatore.

G.CHANDRASEKHARAN. J.,

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