

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.835 of 2021
and C.M.P. No.6951 of 2021
(Through Video Conference)

S. Rajendran

.. Petitioner

Versus

V.Bhaskar

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 17.02.2021 passed in I.A.No.3 of 2019 in O.S.No.5983 of 2016, on the file of the III Additional City Civil Court at Chennai.

For Petitioner : Mr.D.Kanagasundaram

For Respondent : No Appearance

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ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.3 of 2019 in O.S.No.5983 of 2016 on the file of III Additional City Civil Court at Chennai.

2. The petitioner filed a suit in O.S.No.5983 of 2016 against the respondent for recovery of money on the basis of two promissory notes dated 07.12.2013 and 25.12.2013. The respondent entered appearance and filed a written statement. The petitioner's evidence was over and when the matter was pending for respondent's evidence, the respondent filed I.A.No.3 of 2019 for sending Exhibits A1, A2, A4 and A5 along with Ex.A3/ Sale Deed for comparing the disputed signatures in Exhibits A1, A2, A4 and A5 with the admitted signature in Exh.A3. This petition was resisted by the petitioner on the ground that the respondent admitted his signature in the written statement. In fact, he admitted the execution of promissory note dated 07.12.2013 and admitted his signature in other promissory note but claimed that he signed only in blank promissory note. Even in the petition filed to seek leave to defend, he admitted his signatures in the disputed promissory notes. However, without considering the objections made by the petitioner, the learned III Additional Judge, City Civil Court, Chennai allowed the petition. Against the said order, the present Civil Revision Petition is preferred.

3. The learned counsel for the petitioner reiterated the submission that when the signature in the promissory notes are accepted, there is no necessity to send the document for opinion of the hand-writing expert. Whether the consideration is passed in accordance with the promissory note or not, is the subject matter of proof by examining the parties to the promissory note and also attesting witnesses.

4. Notice was sent to the respondent through Court and also through private service. The name of the respondent was printed in the cause list. In view of service of notice on the respondent and in spite of adjourning the matter for the appearance of the respondent, there is no representation for the respondent. Therefore, this Court is proceeding to dispose the matter on merits.

5. Considered the submissions made by the learned counsel for the petitioner and perused the records.

6. As stated earlier, this suit is filed based on the promissory notes. The respondent wanted Exhibits A1, A2, A4 and A5 to be sent to the hand writing

expert for his opinion by comparing the disputed signature in the document with the admitted signature in Ex.A3. The learned counsel for the petitioner submitted that the signature of the respondent in Exhibits A1, A2, A4 and A5 looks identical. The signature in Ex.A3 which has come into existence in the year 2002, is totally different. In the documents that have come into existence in 2013, the respondent had signed uniformly. The disputed signatures of the respondent in the Exhibits A1, A2, A4 and A5 cannot be compared with the document which had come into existence in 2002.

7. It is the fundamental proposition of law that the disputed signatures can be compared with the admitted document, which has come into existence during the contemporaneous period. That apart, as rightly pointed out by the learned counsel for the petitioner that the perusal of written statement and also the petition filed seeking leave to defend in I.A.No.270/2017 shows that the respondent admitted the execution of the promissory note dated 07.12.2013 (Ex.A2). It is also claimed in this affidavit that he had executed four other promissory notes in favour of the petitioner in the same way. It is specifically admitted that the promissory note dated 25.12.2013 was given in blank state and he put his signature. Similar admission is made in paragraph no.7 of the

written statement. When the signature in the promissory notice is admitted, it is not necessary to send the promissory note for the expert's opinion. Similar is the case with Exhibits A1 and A4. These letters are said to have been written by the respondent and his brother V.Ramesh to the petitioner.

8. The learned counsel for the petitioner brought to the notice of this Court that in the evidence given by the respondent's brother V.Ramesh in O.S.No.605/2016, he admitted that the signature in Exhibits A1 and A4 are that of him and his brother. Thus, there are candid admissions from the respondent himself through his written statement and the petition filed to seek leave to defend that the signatures in Exhibits A2 and A5 promissory notes are that of his signature and from the admission of the respondent's brother, it is clear that the signature in Exhibits A1 and A4 are the signatures of the respondent.

9. In the light of the above position, this Court is of the considered view that sending these documents to the opinion of a hand-writing expert is absolutely not necessary and it is a wasteful exercise. The learned III Additional Judge, City Civil Court, Chennai, without considering these

aforesaid admissions made by the respondent in a proper perspective, allowed the petition. When there is no doubt at all with regard to signatures found in Exhibits A1, A2, A4 and A5 that they are the signatures of the respondent, sending these documents to the hand-writing expert's opinion along with Ex.A3 is not warranted.

10. In view of this matter, the order of the learned III Additional Judge, City Civil Court, Chennai is set aside and the **Civil Revision Petition is Allowed**. No costs. Consequently, connected miscellaneous petition is closed.

11. The suit is of the year 2016 and the plaintiffs' evidence is already over. The case is pending for defendant's evidence. The learned III Additional Judge, City Civil Court, Chennai is directed to dispose the suit as expeditiously as possible, preferably within a period of four(04) months from the date of receipt of a copy of this order.

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08.09.2021

Index :Yes / No

Speaking order / Non speaking order

sts/ drm

To:

The III Additional Judge,
City Civil Court,
Chennai,

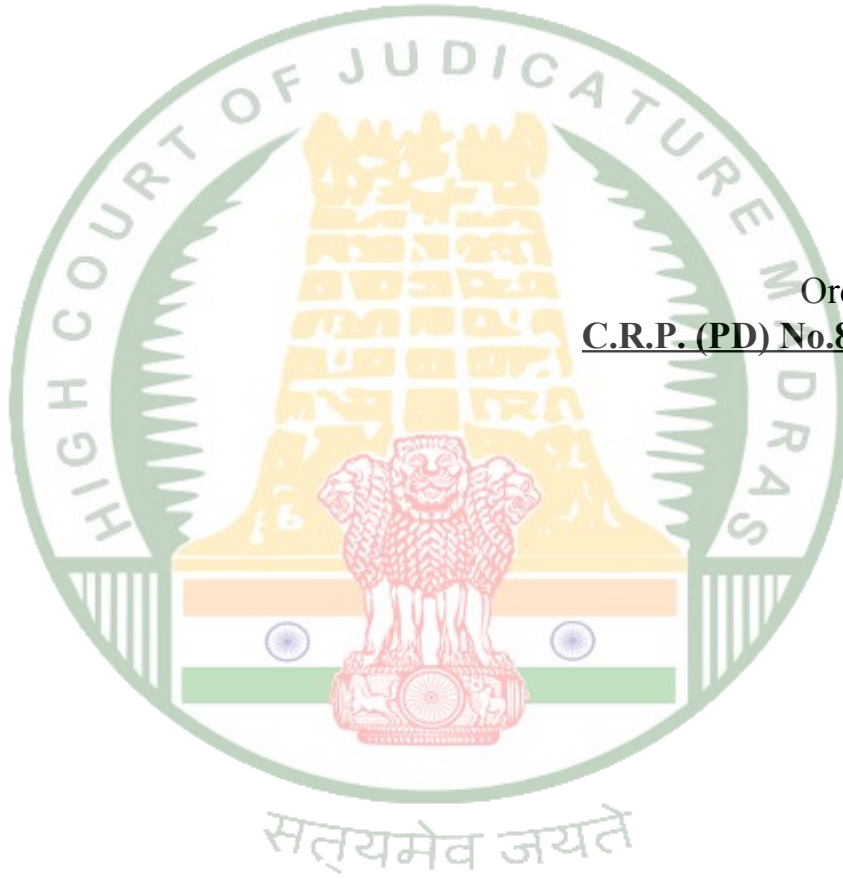


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C.R.P.(PD)No.835 of 2021

G.CHANDRASEKHARAN, J.,

sts/ drm



Order made in
C.R.P. (PD) No.835 of 2021

Dated:
08.09.2021

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