

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.2166 of 2016

and

CMP.No.11239 of 2016

1. M/s. Ramachandra Hatcheries,
A.Partnership Firm,
Rep.by its Partner,
R.S.Shanmugam,
14, Karkana 3rd Street,
Gugai, Salem – 636 006.

2. R.S.Shanmugam

3. S.Shanthi

... Petitioners

Radhakrishnan Bhatia

Vs.

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 23.11.2015 in I.A.No.171 of 2015 in O.S.No.116 of 2015 on the file of II Additional District Court, Salem and allow the above Civil Revision Petition.

For Petitioners

: Mr. R.Subramanian

For Respondent

: No Appearance

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.171 of 2015 in O.S.No.116 of 2015 dated 23.11.2015 on the file of the II Additional District Court, Salem, thereby, dismissing the petition filed by the petitioners for rejection of plaint.

2. The petitioners are the defendants in the suit filed by the respondent for recovery of money on the strength of the pro-note dated 04.06.2012. During pendency of the suit, the petitioners filed a petition for rejection of plaint on the ground that the alleged pro-note dated 04.06.2012 is not a true and genuine document, since the petitioners never executed any pro-note in favour of the respondent herein. They further alleged that the petitioners never barrow any amount as alleged in the suit. Therefore, there is absolutely no cause of action for the respondent to lay the present suit as against the petitioners herein.

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3. The trial Court dismissed the petition for the reason that the ground raised by the petitioners have to gone into only during trial by letting evidence to decide the issues. Without letting the evidence, it cannot be said

that the document dated 04.06.2012 is not a pro-note.

4. The learned counsel for the petitioners would submit that the alleged pro-note dated 04.06.2012 is not a pro-note as contemplated under Section 4 of the Negotiable Instruments Act.

5. On a perusal of records, the trial Court rightly dismissed the petition. Since the ground raised by the petitioners have to go into by full fledged trial by letting evidence. Therefore, this Court does not find any irregularity or infirmity in the order passed by the trial Court. However, the trial Court is directed to frame issue along with other issues, in respect of validity of the document dated 04.06.2012 and decide the suit on merits and in accordance with law.

6. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

11.01.2021

Speaking/Non-speaking order

Index : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The II Additional District Court, Salem.



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