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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.1640 of 2021
and CMP No.12736 of 2021

M.Arulsamy ... Petitioner

Vs

S.Jesuraj ... Respondent

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the fair and Decreetal Order, dated 07.04.2021 made in I.A.No.1 of 2020 in O.S.No.7122 of 2019 on the file of the XVII Additional City Civil Court, Chennai.

For Petitioner : Mr.D.Baskar

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O R D E R

The challenge in this revision is to an order of the trial Court made in I.A.No.1 of 2020 in O.S.No.7122 of 2019, dated 07.04.2021, in and by which the learned XVII Additional City Civil Judge, Chennai dismissed the application filed by the petitioner seeking reference of the disputed signatures in the suit promissory note to the Central Forensic Science Laboratory at Hyderabad for second opinion.

2. The suit is one for recovery of money filed by the respondent. The suit was originally instituted in this Court. Pending suit, the petitioner herein filed an application in application No.5610 of 2017 seeking reference of the disputed signatures to the Government Forensic Expert. The said application was allowed by me and the disputed signatures along with admitted signatures were sent to the Government Forensic Expert for opinion. Upon comparison, the Government Forensic expert namely the Deputy Director, Forensic Science Department, Mylapore, Chennai forwarded the report on 23.11.2018. In the meantime, the suit was transferred to the XVII Additional City Civil Court, Chennai in view of the

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enhancement of the pecuniary jurisdiction and numbered as O.S.No.7122 of 2019. The petitioner has also filed his objection to the report of the Deputy Director, State Forensic Science Department. It is at this stage, the petitioner has come up with this instant application seeking second opinion from the Central Forensic Science laboratory, Hyderabad.

3. According to the petitioner, the report of the Deputy Director, Forensic Science Department, Mylapore, Chennai is not a complete report and terming it as a defective one, the petitioner would seek second report from the Central Forensic Science Laboratory at Hyderabad.

4. The learned trial Judge has rightly dismissed the application. In my considered opinion, the application itself is premature. It is settled law that the opinion of the expert under Section 45 of the Evidence Act is only an opinion which is not binding on the Court. It is for the Court to accept it or reject it. If the petitioner establishes that the report is defective or incorrect and if the Court also feels that the report filed, is defective or incorrect, it is open to the petitioner to apply for further opinion. Hence, I

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do not see any reason to interfere with the order of the trial Court at this stage. The revision therefore fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous Petition is closed.

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vum
Index: Yes/No
Speaking order / Non speaking order

To:
The XVII Additional City Civil Court, Chennai.

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R.SUBRAMANIAN, J.

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