

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 17.06.2021**

**CORAM**

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

**C.R.P(PD).No.2093 of 2020  
and  
C.M.P.No.13218 of 2020**

Viswanathan

...Petitioner

Vs

Thangaraj

...Respondent

Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.02.2020 made in I.A.No.826 of 2019 in O.S.No.139 of 2017 on the file of the Subordinate Court, Kangeyam and allow the same.

For Petitioner : Mr.V.Regunathan

For Respondent : Mr.D.Gopal

ORDER

The defendant in O.S.No.139 of 2017, which is now pending on the file of the Sub Court, Kangeyam, is the revision petitioner herein.

2.The said defendant had filed I.A.No.826 of 2019 seeking to forward the Promissory Note which had been marked as Ex.P1 to verify the signature and also the fingerprint of the defendant by a forensic expert at Tamil Nadu State Forensic Laboratory at Chennai. It must be mentioned that the suit in O.S.No.139 of 2017 had been filed for recovering a sum of Rs.8,77,400/- which included the principal amount of Rs.8,00,000/-. The said suit was based on a promissory note which was said to have been executed on 23.11.2014 by the defendant and which amount had not been allegedly repaid by the defendant on demand.

3.The learned counsel for the respondent Mr.D.Gopal, has raised grievances over the manner in which the suit progressed through its torturous pathway in the Trial Court. The learned counsel complained that

there was a delay in filing of the written statement. Thereafter, there was further delay by filing of various interlocutory applications, not just the present application which is complained of but several other applications. The learned counsel also stated that the delay is totally unjustified since as pointed out by the learned Judge in the order now under question, the counsel for the defendant had actually personally verified and inspected the suit promissory note by filing a memo for inspection and even thereafter an application with the relief as now sought, had been filed. The said application had been filed after the examination of the plaintiff witness had been completed. It is also pointed out by the learned counsel that even in the written statement a stand was taken that the promissory note cannot be acted upon and its genuinity was doubted and the learned counsel stated that inspite of such specific stand immediately thereafter an application of the present nature had not been filed.

4.Be that as it may, after filing of the written statement, witnesses were invited to graze the witness box. The defendant took up the said opportunity and examined P.W.1[plaintiff] and P.W.2[witness to the

promissory note]. Thereafter, the defendant filed an application to file additional written statement and that was also allowed. After cross examination of both the plaintiff's witness, the defendant filed I.A.No.826 of 2019 seeking, as stated above, to forward the said promissory note, Ex.P1, to test the signature and fingerprint found on the said promissory note by an expert in the Tamil Nadu State Forensic Laboratory at Chennai. By an order dated 21.02.2020, the said application came to be dismissed. The learned Judge also lamented the delaying tactics which was adopted by the defendant and stated that the defendant had several opportunities earlier to file such an application and observed that the application had been filed with the sole intention to drag on the proceedings. The application was dismissed giving rise to the filing of the present revision petition.

5. During the hearing on an earlier occasion on 08.04.2021, this Court had enquired with Mr.V.Regunathan, learned counsel for the petitioner whether the witnesses who were cross examined by him, namely, P.W.1 and P.W.2 were also questioned with respect to genuinity of the promissory note.

6.Today [17.06.2021], by way of an additional typed set of papers, the evidence of P.W.1 and P.W.2 had been presented before the Court and it is seen that suggestions were put to both the witnesses that the suit itself has been based on a promissory note which had been prepared for the purpose of the case. The written statement also reflects the same stand. Therefore, it would only be appropriate to clear all doubts that the promissory note is forwarded to the Tamil Nadu State Forensic Laboratory at Chennai to be examined with respect to the signature and thumb impression of the defendant. To compare the signature, obligation is placed on the defendant to produce the required documents of the contemporaneous period, namely, of the year 2014 which contains his admitted signature. It is stated that already one document has been filed. Further, the defendant must also subject himself for taking his thumb impression to be taken and permit such thumb impression to be compared with the thumb impression as found in the promissory note. Naturally, all this requires co-operation of the defendant. These conditions are stipulated because of the complaint made by Mr.D.Gopal, learned counsel for the respondent that the defendant had been dragging on the matter.

7.The order under revision is therefore interfered with and permission is granted to forward Ex.P1 to the Tamil Nadu State Forensic Laboratory at Chennai through an Advocate Commissioner to be appointed by the learned Sub Judge, Kangeyam. The learned Judge may at the earliest appoint an Advocate Commissioner for this particular purpose and expenses towards the Advocate Commissioner are to be borne by the defendant in the suit. The Advocate Commissioner, as soon as facilities are available may proceed to the Tamil Nadu State Forensic Laboratory at Chennai with the original promissory note and with admitted signatures of the defendant and forward the same to a responsible officer at the Forensic Laboratory for obtaining a report on the signature as found in the promissory note with the admitted signature of the defendant. The defendant may also forward his thumb impression as required by the officer of the Forensic Laboratory for comparison with the thumb impression found in the promissory note, Ex.P1. It is hoped that there would be no delay in the said process and at any rate, such process should be completed on or before 30.09.2021. Thereafter, when trial re-commences before the Court, the learned Judge may take a

grip over the trial process and conduct trial, namely, evidence of the defendant witness and evidence of the experts at the Forensic Laboratory, if called for, by either one of the two parties, on a day-to-day basis and if at all, adjournments are sought, can grant only three working days in between any two adjournments and not more than two adjournments can be granted for the very same reason. By adopting such procedure, the learned Judge would certainly be in a position to complete the trial by 31.12.2021.

8. With the said observations, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**17.06.2021**

cse  
Index: Yes/No  
Internet: Yes/No

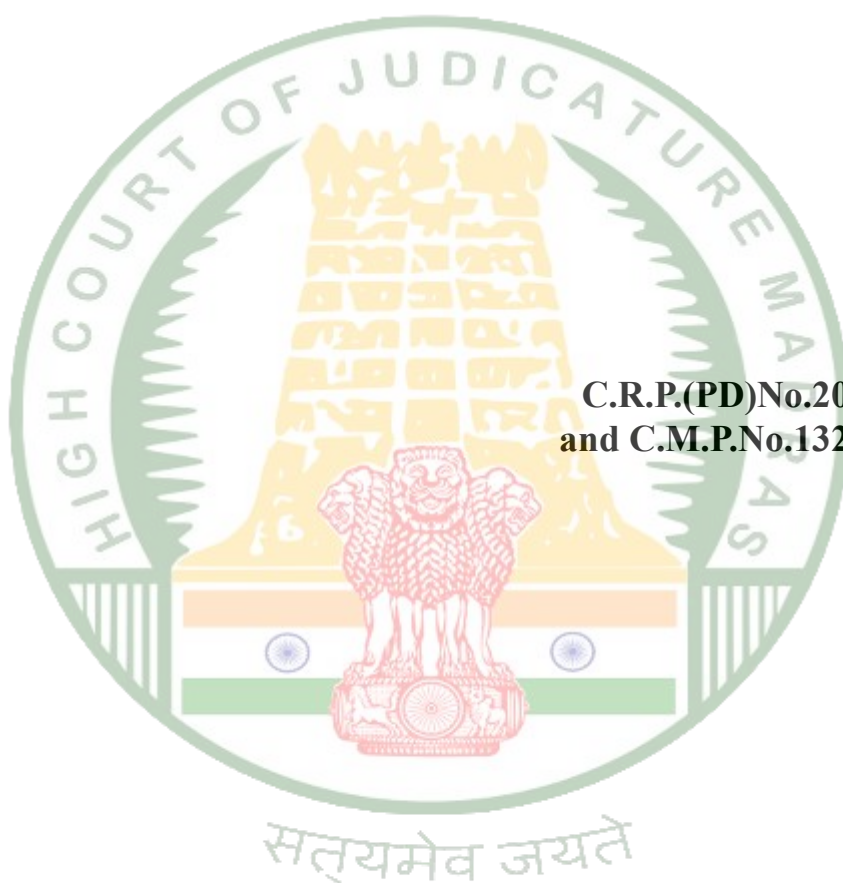
To

The Subordinate Judge,  
Kangayam.

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**C.V.KARTHIKEYAN, J,**

cse



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