



C.R.P.(NPD).No.2469 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.2469 of 2021

and

C.M.P.No.18691 of 2021

1.S.T.Swami

2.Vimala Rani

.. Petitioners

Vs.

Rathinaswamy

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 05.03.2021 in I.A.No.2 of 2020 in A.S.No.3 of 2019 on the file of the Principal District Court, Salem.

For Petitioners : Mr.S.Mayilnathan



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ORDER

Challenge in this Revision is to the order made in I.A.No.2 of 2019, an application filed under Section 45 of Indian Evidence Act seeking reference of documents to the handwriting expert at the appellate stage.

2. The suit is one for recovery of money. It was decreed after contest. Though, the defendants admitted the signatures in the promissory note, it was their contention that those signatures were obtained in respect of a borrowing in the year 2009 and the money borrowed in 2009 were repaid under the receipts marked as Ex.B1 (series). The plaintiff disputed the signatures in the receipts. The trial Court rejected the defence and decreed the suit.

3. Aggrieved, the defendants have filed an appeal in A.S.No.3 of 2019. Pending the said appeal, the defendants have come up with this application seeking to refer Ex.B1 (series) for expert opinion. What the defendants are attempting, is to lead additional evidence in appeal. They will have to necessarily satisfy the requirements of Order XLI Rule 27 of the Code of Civil Procedure, if they are to lead evidence in appellate stage.



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The affidavit filed in support of the application seeking reference of the document to the expert is bereft of any reason or cause satisfying the requirements of Order XLI Rule 27 of the Code of Civil Procedure.

4. The learned Principal District Judge considered the application on merits and has concluded that, if the application is allowed and the document is sent for expert opinion, it will amount to filling up the lacuna in the evidence. I do not find any reason to interfere with the said conclusion of the learned Principal District Judge.

5. The Revision therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

19.11.2021

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Index : No
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Speaking order

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To

The Principal District Judge, Salem.



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R.SUBRAMANIAN, J.

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