

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).No.539 of 2017

and

C.M.P.No.2976 of 2017

N.Kumar

.. Petitioner

Vs.

1.Ponnumani

2.K.Jamuna

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of Constitution of India against the fair and decretal order dated 23.11.2016 made in I.A.No.67 of 2015 in O.S.No.99 of 2010 on the file of the Sub Court, Ranipet, Vellore District.

For Petitioner : Mr.T.Dhanyakumar

For R1 : Mr.T.P.Prabakaran

For R2 : No appearance

ORDER

(The matter is heard through “Video Conferencing/Hybrid Mode”.)

This Civil Revision Petition is filed against the fair and decretal order dated 23.11.2016 made in I.A.No.67 of 2015 in O.S.No.99 of 2010 on the file of the Sub Court, Ranipet, Vellore District.

2.The present petitioner is the 1st defendant, 1st respondent is the plaintiff and 2nd respondent is the 2nd defendant in O.S.No.99 of 2010 filed by the 1st respondent for recovery of money based on promissory note. The petitioner filed written statement and is contesting the suit. When the suit was posted for cross examination of P.W.1, the petitioner and 2nd respondent filed I.A.No.67 of 2015 to send the suit pronote for expert's opinion, so as to test the signatures in the pronote.

3.According to the petitioner, he did not execute the promissory note. The petitioner had money transaction and he acted as broker for Finance Business of 1st respondent. In the year 2004, the petitioner left the 1st

respondent. At that time, 1st respondent with the help of the members of political party, obtained signatures of the petitioner and 2nd respondent, who is the wife of the petitioner, in the blank papers and forged the suit promissory note. The alleged signature of the petitioner and 2nd respondent are forged by the 1st respondent. Hence, it is necessary to test the signatures by hand writing expert.

4.The 1st respondent filed counter affidavit and submitted that suit was filed in the month of June 2010. The petitioner and 2nd respondent filed written statement in the month of September 2010. The petitioner or the 2nd respondent did not take any steps to send the suit promissory note for hand writing expert at the earliest point of time. After five years, when the suit was posted for cross examination of P.W.1, the present petition is filed only to drag on the proceedings and prayed for dismissal of the I.A.

5.The learned Judge considering the averments made in the affidavit, counter affidavit, materials available on record and arguments of counsel for the parties, dismissed the I.A.

6. Against the fair and decretal order dated 23.11.2016 made in I.A.No.67 of 2015 in O.S.No.99 of 2010, the petitioner has come out with the present Civil Revision Petition.

7. The learned counsel appearing for the petitioner submitted that the learned Judge erroneously dismissed the application on the ground of delay. To prove the case of the petitioner in the suit, it is necessary to obtain the opinion of hand writing expert. Without considering the same, the learned Judge erroneously dismissed the I.A. and prayed for allowing the Civil Revision Petition.

8. Though notice has been served on the 2nd respondent and her name is printed in the cause list, there is no representation for her either in person or through counsel.

9. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the 1st respondent and perused the entire

materials on record.

10.From the materials on record, it is seen that the 1st respondent has filed the suit for recovery of money based on promissory note. According to 1st respondent, the petitioner and 2nd respondent borrowed money and in evidence thereon jointly executed a promissory note. According to 1st respondent, the petitioner made part payments and interest and made endorsement on the backside of the promissory note on the respective dates. In the written statement filed by the petitioner, he admitted that he had money transaction with 1st respondent and paid part of the principal amount and interest regularly and 2nd respondent is no way connected with the said money transaction. According to the petitioner, the suit promissory note is forged one by obtaining signature of the petitioner and 2nd respondent in the blank papers with the help of members of political party. From these averments, it is clear that the signatures in the suit promissory note are admitted by the petitioner, but according to him, the petitioner and 2nd respondent were forced to sign in the blank papers and promissory note was forged by the 1st respondent. When signatures in the promissory note are admitted, the request

of the petitioner to send the suit promissory note to hand writing expert to verify the genuineness of the signatures is not maintainable. When the contention of the petitioner is that using the signatures of the petitioner and 2nd respondent in the blank papers, the 1st respondent forged the promissory note, he has to prove the said contention by letting in acceptable evidence. Further the petitioner had filed the written statement in the month of July 2010, stating that suit promissory note is a forged one. The petitioner did not take any steps to send the promissory note to get the expert opinion immediately. Only when the suit was posted for cross examination of P.W.1 in the year 2015, the petitioner has come out with the present petition belatedly.

11.For the above reason, there is no error in the fair and decretal order of the learned Judge warranting interference by this Court. The suit is of the year 2010 and the learned Subordinate Judge, Ranipet, Vellore District is directed to dispose of the suit as expeditiously as possible, in any event not later than within a period of six months from the date of receipt of a copy of this order.

12.In the result, this Civil Revision Petition is dismissed.
Consequently, the connected Miscellaneous Petition is closed. No costs.

04.08.2021

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Index : Yes / No

Internet : Yes / No

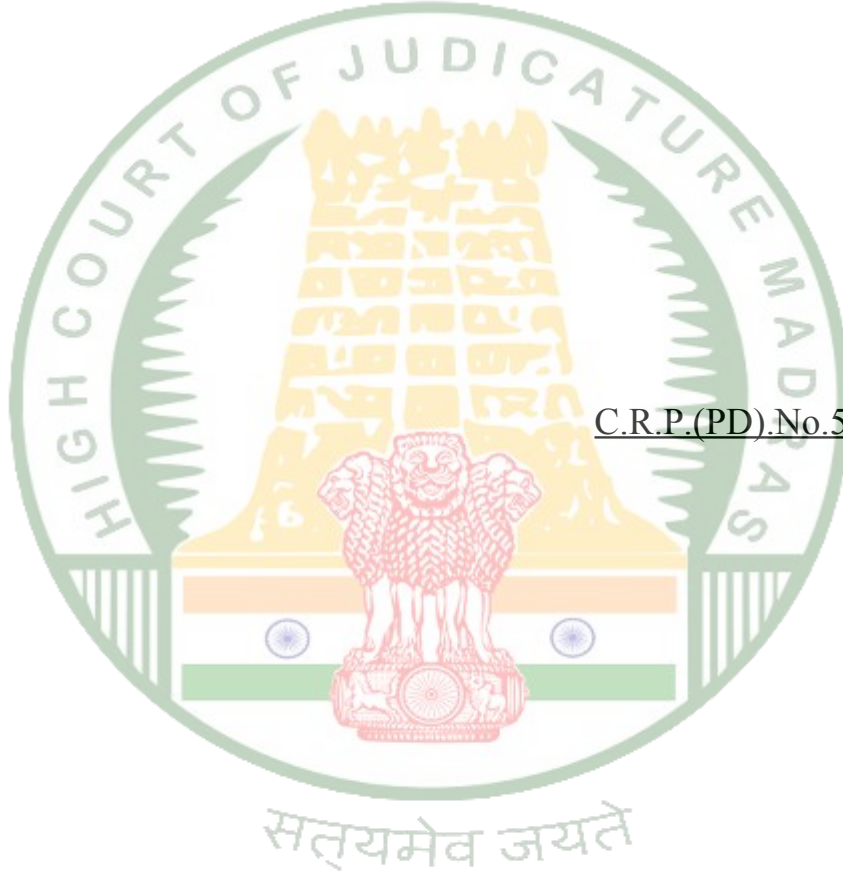
To

The Subordinate Judge,
Ranipet,
Vellore District.



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V.M.VELUMANI, J.
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