



C.R.P(PD)No.664 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)No.664 of 2022
and C.M.P.No.3394 of 2022

A.Murugasamy
S/o.Arusamy Gounder

... Petitioner

Vs.

1.M.Nataraj
S/o.Murugesan
M/s.Shiruthi Garments
No.26, Nanjappa School Road
Khadepet, Tirupur

2.A.Selvaraj
S/o.Arusamy Gounder
No.26, Nanjappa School Road
Khadepet, Tirupur

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decretal order dated 24.09.2021 in I.A.No.129 of 2020 in O.S.No.662 of 2010 on the file of the learned Principal Subordinate Judge, Tirupur.

For Petitioner : Mr.G.Ethirajulu



ORDER

The plaintiff in O.S.No.662 of 2010 has come forward with an application in I.A.No.129 of 2020 seeking the appointment of an expert for comparing the alleged disputed signature of the defendant in a promissory note on the basis of which he has laid a suit for recovery of money.

2.Heard the learned counsel for the revision petitioner and also perused the impugned order.

3.It is evident from the impugned order that earlier an expert has been appointed for the same purpose, that the opinion of the expert was that the impugned signature of the defendant in the promissory note does not match as admitted signature and that the plaintiff has not filed any objection to that expert's report.

4.It is in these circumstances, the trial Court found that there is no merit in the present application seeking appointment of another expert for the same purpose. This Court is in agreement with the line of reasoning of the trial



Court having stated thus, it is still open to the revision petitioner to challenge the same.

5.Learned counsel submitted that, atleast he may be permitted to file an objection to the expert's report and added that the expert's report itself was obtained during Pandemic situation, due to CORONA protocol in holding the physical Courts and hiccups caused thereby, objection could not be filed.

6.The Procedural code is a Rule book of fairness and flexibility is its character. Therefore, every case has to be weighed on its merit and the procedural law to the extent required to be handled in a manner that may advance cause of justice in each particular case. Therefore, it is appropriate that the plaintiff is given an opportunity to raise his objection to the expert's report, and required to be accorded an opportunity to cross examine if needed.

7.This order is passed without any notice to the defendant. After all, the defendant does not have a vested right in this aspect of procedural law.



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N.SESHASAYEE, J.,

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8.The Civil Revision Petition accordingly disposed of at the admission stage itself. Consequently, the connected C.M.P.No.3394 of 2022 is closed. No costs.

10.03.2022

Index : Yes/No
Internet : Yes/No
Speaking /Non speaking

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To

The Principal Subordinate Judge
Tirupur.

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