A.Nos.1952 and 1953 of 2021
in
C.S.No.178 of 2021

Orders Reserved on : 2.3.2022

Orders Pronounced on : 17.08.2022

P.VELMURUGAN, J.

The application in A.No.1952 of 2021 has been filed to appoint the services of a handwriting expert to compare the signature of the first applicant with the offending signatures found in the loan agreements entered into by the tenth respondent with the respondents 2 to 9 and also to direct the respondents 2 to 9 to produce the original loan agreements for comparing and filing a report before this Court.

2. The application in A.No.1953 of 2021 has been filed to appoint the services of a handwriting expert to compare the signature of the second applicant with the offending signatures found in the loan agreements entered into by the tenth respondent with the first respondent and also to direct the first respondent to produce the original loan agreement for comparing and filing a report before this Court.

3. The learned Senior Counsel appearing for the applicants submitted that the tenth respondent who is none other than the husband of the first applicant and father of the second applicant, had conspired with the officials of the respondents 1 to 9 and forged the signatures of the applicants 1 and 2 as a co-borrowers/ guarantors and obtained loan on various dates by executing various agreements. However, the applicants 1 and 2 are no way connected with the alleged transactions and they never stand either as a co-borrower/obligor/guarantor. He further submitted that the tenth respondent claimed that he had also offered the suit schedule property as collateral, however, on verification, it was found that all the original documents of title are kept in-tact and are in possession of the first applicant and no encumbrance had been created. Hence, the tenth respondent has no valuable security in his name and unless the applicants stand as guarantors/co-borrowers, no Bank or financial institution would sanction loan to the tenth respondent. Thus, the applicants preferred a police complaint against the tenth respondent and also informed the fraudulent act committed by the tenth respondent to the respondents 1 to 9. He further submitted that since the tenth respondent had forged the signatures of the applicants as co-borrowers/obligors/guarantors and obtained loan with the connivance of the officials of the respondents 1 to 9, the applicants denied the signatures found in

the loan agreements and also denied the loan transactions, and hence, they taken out the present applications to compare the offending signatures found in the various loan agreements with the admitted signatures by using the services of the handwriting experts.

4. Per contra, the learned counsel appearing for the respondents denied the allegations made by the applicants and stated that in each of the loan transactions, there is an arbitration clause and in view of the arbitration clause, the present suit is not maintainable. In this regard the defendants 2, 3, 5 and 9 have already filed Appln.Nos.2888, 2948 and 4546 of 2021 and 385 of 2022 to refer the disputes to the arbitration proceedings in accordance with arbitration clause of said loan agreements. It is further submitted that the applicants are having knowledge about the said loan transactions, since they have colluded with the tenth respondent, in order to avoid the repayment of loan dues and also to protract the repayment, they filed the present suit. It is further submitted that in the present suit, the cause of action is different and hence, all the defendants cannot be clubbed together and hence, the plaint itself has to be rejected.

5. Heard both sides and perused the materials available on record.

6. The main contention raised by the applicants is that the tenth respondent in connivance with the officials of the respondents 1 to 9, had forged the signatures of the applicants 1 and 2 as co-borrowers/obligors/guarantors and obtained loan. The applicants have stoutly denied the signatures found in the loan agreements and also denied the loan transactions and hence, they have filed the present applications for comparison of admitted signatures with the disputed signatures and also to direct the respondents 1 to 9 to produce the original loan agreements before this Court.

7. Since the applicants have denied the signatures and also the loan transactions and pleaded forgery, if the applications are allowed, no prejudice would be caused to the respondents. In order to meet the ends of justice, these applications are allowed.

8. Resultantly, Mr.M.Sounderrajan, Advocate, Enrollment No.2140/2013 (Mobile Number 96771 11592) having office at Chamber No.1, High Court Building and Campus, Chennai-600 104, is appointed as Advocate Commissioner. The Advocate Commissioner fee is fixed at Rs.25,000/- which shall be paid by the applicant to the Advocate Commissioner forthwith. The respondents 1 to 9 are

directed to produce the original documents which contains admitted signatures before the Registry and on production of the same, the Registry is directed to take steps to send both the documents to the forensic department in a sealed cover through the Advocate Commissioner to get an opinion from the hand writing experts. After getting the opinion of the handwriting expert in a sealed cover, the learned Advocate Commissioner is directed to file his report along with the opinion of the handwriting expert.

17.08.2022

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P.VELMURUGAN, J.

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Pre-delivery Order in
A.Nos.1952 and 1953 of 2021
in
C.S.No.178 of 2021

17.08.2022