



C.R.P. (PD) No.1666 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

**THE HONOURABLE MS. JUSTICE R.N.MANJULA**

C.R.P. (PD) No.1666 of 2022

and

C.M.P.No. 8278 of 2022

R.Manoharan,  
S/o. Raghunathan

... Petitioner

Versus

K.M.Saminathan,  
S/o. Muthusamy

... Respondent

**Prayer:-** Civil Revision Petition has been filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 14.09.2021 made in I.A.No.429 of 2021 in O.S.No. 364 of 2018 passed by the Additional Subordinate Judge, Tiruppur and to allow the Civil Revision Petition.

For Petitioner

: Mr.C.Prabakaran



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C.R.P. (PD) No.1666 of 2022

## **ORDER**

This Civil Revision Petition has been preferred challenging the order of learned Addl. Sub-Judge, Tiruppur dated 14.09.2021 in I.A.No. 429 of 2021 in O.S.No. 364 of 2018.

2. The Revision Petitioner is the defendant in the suit. The respondent/plaintiff filed a suit for recovery of money on the basis of promissory note. During the pendency of the suit, the defendant filed an Interlocutory Application under Sec.45 of Evidence Act to send the disputed signature in the promissory note for comparison with the admitted signatures of the defendant by a handwriting expert and get his opinion. The said application was dismissed. Aggrieved over that, this Civil Revision Petition has been filed.

3. The learned counsel appearing for petitioner submitted that even in his written statement, the defendant has denied his signature in the promissory note and in the interest of justice, the disputed signature should



be sent for comparison by handwriting expert, since the learned trial judge failed to give him a fair opportunity, the order of dismissal should be reversed.

4. On perusal of the order of learned Trial Judge, it is seen that the interlocutory application has been filed after the commencement of trial and at a time, when the matter was posted for defendant side evidence. The learned trial judge in his order has also extracted the suggestions made by the defendant to P.W.1 during his cross-examination that the plaintiff had misused the signed documents like promissory note, cheques given to him by way of security. It is further suggested that the plaintiff had failed to return those documents as agreed and filed the suit. The stand taken by the defendant during cross-examination would only give an inference that the signature is not in dispute, but the consideration alone is denied. So, it is open to the defendant to prove that the suit promissory note is not supported by any consideration.



C.R.P. (PD) No.1666 of 2022

5. Even for extraneous reasons, the Revision Petitioner disputes the signature on the pronote, the fact cannot conclusively establish with the help of the opinion of the expert. Because the report of the handwriting expert cannot serve as a conclusive proof. The expert opinion has just a corroborative effect along with the other materials produced before the Court at the time of trial. Further, the Court itself has got powers under Sec.73 of Evidence Act to examine the signatures, if there is any gross difference found in the signatures. Hence, the learned trial judge has rightly dealt the issue and chosen to dismiss the application. I find no ground for interference.

6. In the result, this Civil Revision Petition dismissed and the order passed by the learned Addl. Sub-Judge, Tiruppur dated 14.09.2021 in I.A. No.429 of 2021 in O.S.No.364 of 2018 is confirmed. Consequently, the connected Civil Miscellaneous Petition is closed.

**24.06.2022**

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To  
Addl. Subordinate Judge,  
Tiruppur.

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C.R.P. (PD) No.1666 of 2022

**R.N.MANJULA, J.**

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C.R.P. (PD) No.1666 of 2022

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