



C.R.P(PD) No.1904 of 2022 and

C.M.P.No.9711 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

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

C.R.P(PD).No.1904 of 2022 and

C.M.P.No.9711 of 2022

Mr.N.Ramachandran (Sekarappa)

... Petitioner

Vs.

Mr.B.Sanjeevi Kumar

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.06.2022 in I.A.No.2 of 2021 in O.S.No.2425 of 2020, passed by the Hon'ble XXIII Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.G.Krishna Raj

ORDER

This revision petition has been filed to set aside the fair and decreetal order dated 07.06.2022 in I.A.No.2 of 2021 in O.S.No.2425 of 2020, passed by the Hon'ble XXIII Additional Judge, City Civil Court, Chennai.

2. Heard the learned counsel for the petitioner.



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3. The revision petitioner is the plaintiff in the suit. He has filed a suit against the defendant for recovery of money. When the suit was pending, he filed a petition in I.A.No.2 of 2021 to appoint an Advocate Commissioner. The learned Trial Judge dismissed the petition. Aggrieved over that, this civil revision petition has been preferred.

4. The learned counsel for the petitioner vehemently submitted that the prayer of the revision petitioner before the Lower Court is very much maintainable in order to prove the conduct of the defendant that his signature in the vakalat and written statement differs and it is visible even to the bare eyes examination.

5. The petition has been filed under Order 26 Rule 9,10(a) and 10(b) of C.P.C., for appointing a Commissioner to take the documents for forensic department for the purpose of comparison. This prayer can be only consequential to the permission of the Court for allowing the petitioner to get the disputed signatures compared with the admitted signatures by a Handwriting Expert. The petition ought to have been filed under Section 45 of the Evidence Act. The manner in which the petition filed itself would show that



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it is a pre-matured one.

6. Further, the signatures sought to be compared are the signatures on the vakalat and the written statement and not the signatures on any of the documents which have been filed in the suit. In fact, even during the course of the arguments, it is submitted that the defendant did not deny his signature in the vakalat and written statement. When such is the matter, it is an unnecessary exercise for the learned Trial Judge to send the other records like vakalat and written statement for comparison in order to establish the conduct of the defendant. If the petitioner pleads that the difference is very much visible to the bare eyes, the Court itself is at liberty to exercise its own powers for comparison without making unnecessary delay in sending them to the Handwriting Expert. Even if the opinion of the Handwriting Expert is obtained, it is needless to point out that it cannot serve as a conclusive proof, but, it can only be a corroborative factor. Under such circumstances and also in the manner in which the petition is filed before the Trial Court, I do not find any reasons for interference in the order passed by the learned Trial Judge.

R.N.MANJULA, J.



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7. Accordingly, this Civil Revision Petition stands dismissed and the order passed by the learned XXIII Additional Judge, City Civil Court, Chennai, in I.A.No.2 of 2021 in O.S.No.2425 of 2020 dated 07.06.2022, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2022

Index : Yes/No

Speaking or Non-speaking order

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To

The XXIII Additional Judge, City Civil Court,
Chennai.

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