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C.R.P.No.2280 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2280 of 2019
and C.M.P.No.14884 of 2019

K.Siva .. Petitioner
Vs.

Jothi .. Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in I.A.297 of 2018 in O.S.No.142 of 2010 on the file of IInd Additional Subordinate Judge, Villupuram, dated 02.04.2019 and thereby allow the revision.

For Petitioner : Mr.N.Suresh

For Sole Respondent : No appearance
Notice served

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 02.04.2019 made in I.A.297 of 2018 in O.S.No.142 of 2010 on the file of IInd Additional Subordinate Judge, Villupuram, thereby dismissing the petition to appoint an Advocate Commissioner to obtain the promissory note under Ex.A1 to the Forensic Lab, Chennai,



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for expert opinion.

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2. Heard, Mr.N.Suresh, learned counsel appearing for the petitioner. Though, notice was served on the respondent and her name is printed in the cause list, no one appeared on behalf of her in person or through pleader.

3. The petitioner is the defendant in the suit filed by the respondent for recovery of money, on the strength of the pro-note, which was marked as Ex.A1.

4. The respondent had issued suit notice to the petitioner, on 30.11.2009. On receipt of the same, the petitioner had also replied by way of a reply notice dated 04.12.2009. After filing the suit, the petitioner filed the written statement and he categorically disputed the execution of pro-note. According to him, the respondent had fabricated and created the suit promissory note with wrongful particulars. He had also issued a suitable reply for suit notice issued by the respondent herein. After examination of P.W.1 in chief and after marking Ex.A1, the



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petitioner filed a petition to send Ex.A1 to get an expert opinion.

However, the Court below dismissed the petition on the ground that the petitioner has not disputed the signature and contended only for getting expert opinion to find out whether there is any material alterations in the amount specified in pro-note. Though, the petitioner did not dispute the signature found in Ex.A1, he had disputed about the material alterations in Ex.A1.

5. A perusal of the written statement revealed that the respondent categorically denied the execution of pro-note for the said amount. A perusal of Ex.A1 also revealed that there is some corrections and material alterations in the top of the pro-note with regard to amount. In fact, it was also admitted by P.W.1. Therefore, it is just and necessary to send Ex.A1 for expert opinion in respect of material alterations to defend the suit.

6. Hence, the order passed by the Court below is liable to be set aside. Accordingly, the fair and decreetal order dated 02.04.2019, made in I.A.297 of 2018 in O.S.No.142 of 2010, on the file of IInd Additional Subordinate Judge, Villupuram, is hereby set aside. On receipt of the



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expert opinion, the Trial Court is directed to dispose of the suit, within a period of three months thereafter.

7. Accordingly, this Civil Revision Petition is allowed.

Consequently connected miscellaneous petition is closed. No costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The IInd Additional Subordinate Judge, Villupuram.

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15.12.2022