



C.R.P.No.3406 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3406 of 2022
and
C.M.P.No.18113 of 2022

P.Subramani (Died)

1.Subbammal

2.Kavitha

3.S.Sarath Babu

4.Sridevi

... Petitioners

vs

Bakthavachalam

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 01.03.2022 in I.A.No.60 of 2021 in O.S.No.08 of 2019 on the file of Special Sub Court for LAOP, Arakkonam.

For Petitioners : Mr.S.Mukunth
for Sarvabhauman Associates



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below appointing an Advocate Commissioner for taking Suit Promissory Notes A to D in sealed cover for comparison by expert.

2. The revision petitioners are the defendants in the suit. The respondent herein filed a suit for recovery of money based on four promissory notes against the deceased P.Subramani. The sole defendant viz., P.Subramani died pending suit. The revision petitioners were brought on record as his legal heirs. Even while the deceased sole defendant was alive, he filed written statement admitting the signatures found in the promissory notes. However, he denied his signatures found in the endorsement to the promissory notes.

3. Now, the respondent filed an application seeking appointment of Advocate Commissioner to take Suit Promissory Notes to expert for comparison of the admitted signatures found in the first page of the promissory notes with the disputed endorsement found in the rear side promissory notes.

4. The said application filed by the respondent was opposed by the



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revision petitioners on the ground that the signatures found in the same document cannot be compared, overlooking the same, the Court below allowed the said application. Aggrieved by the same, the revision petitioners have come up before this Court.

5. The learned counsel for the petitioners submitted that the admitted signature of the deceased defendant found in the first page of the suit promissory notes A to D were dated 30.10.1996, 20.11.1996, 10.01.1997 and 20.11.1998. However, the disputed signatures found in the endorsement in the rear side of the suit promissory notes were dated much later. Therefore, the Court below ought not to have allowed the application for comparison of the disputed signatures found in the endorsement when no contemporaneous admitted signature is available.

6. It is always better to avoid comparison of the disputed signature with the admitted signature, which is not contemporaneous. The reason behind, the same is by passage of time, there would be a change in the style of writing. Therefore, it is not to safe to compare the disputed signature with the sample



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signature, which is not contemporaneous. However, in this case, the respondent/plaintiff had taken the risk of comparing the disputed signatures found in the endorsement with the admitted signature found in the first page of the promissory notes, which came into existence nearly six years prior to disputed signature. I do not think the revision petitioners are aggrieved by the impugned order. If at all, it is for the respondent/plaintiff to object to the comparison of the disputed signature with the admitted signatures, which is not contemporaneous. Because, if ultimately it is found that disputed signature varies with admitted signature in the first page, he will be the really affected person.

7. In this case, he willingly wanted to compare the disputed signature found in the endorsement with the admitted signature. Therefore, the petitioners are not at all aggrieved by the order passed by the Court below. If the petitioner is in possession of any admitted contemporaneous signatures, it is always open to him to produce the same before the Court below and seek comparison of the disputed signature found in the endorsement with the contemporaneous admitted signature produced by the revision petitioners.



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WEB COPY 8. With the above observation, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

dm

To

The Special Sub Court for LAOP,
Arakkonam.



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S.SOUNTHAR, J.

dm

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