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C.R.P.(PD).No.4054 of 2022 and  
C.M.P.No.21026 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 06.12.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**C.R.P.(PD).No.4054 of 2022**  
**and**  
**C.M.P.No.21026 of 2022**

Jubitha Banu

... Petitioner

Vs.

1. Zahir Hussain  
2. Nargis Banu

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 03.09.2022 passed in I.A.No.1 of 2021 in I.A.No.72 of 2018 in O.S.No.389 of 2013, on the file of the I Additional District Judge, Coimbatore, by allowing this Civil Revision Petition.

For Petitioner : Mrs. Elizabeth Ravi

**ORDER**

The Civil Revision Petition has been filed to set aside the order dated 03.09.2022 passed in I.A. No.1 of 2021 in I.A. No.72 of 2018 in O.S. No.389



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2. The Suit was instituted for recovery of money. The plaintiff filed an Interlocutory Application in I.A. No.72 of 2018 for appointment of an Advocate Commissioner to verify the signature of the parties. The said Interlocutory Application in I.A. No.72 of 2018 was dismissed for default on 29.09.2021 and to set aside the said order, the petitioner filed Interlocutory Application in I.A.No.1 of 2021. The said Interlocutory Application was also rejected on the ground that the reasons stated by the petitioner for setting aside the order of default is false and unacceptable. The Petitioner has made an attempt to shift the blame upon the Court for the dismissal of I.A.No.72 of 2018 and therefore, the trial Court rejected the Interlocutory Application.

3. The learned counsel for the petitioner made a submission that the Interlocutory Application was to appoint an Advocate Commissioner to refer the matter to the handwriting expert for the verification of signature and therefore, no prejudice would be caused to either of the parties and thus, the trial Court ought to have considered the petition.

4. The petitioner had not vigilantly pursued the Interlocutory Application filed in I.A. No. 72 of 2018. The petitioner allowed the



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Interlocutory Application for dismissal on default. Thereafter, he filed another application to set aside the dismissal order passed for non-prosecution.

5. May that as it be. This Court is of the considered opinion that the suit is for recovery of money. If at all, the signature of the parties are to be verified, the petitioner has to file an appropriate application for referring the matter to the handwriting expert directly by the Court. In such circumstances, appointment of an Advocate Commissioner is not preferable. Advocate Commissioners need not be appointed for the purpose of referring the matter further to the handwriting expert and in such circumstances, the Advocates will act as Mediators, which is certainly not advisable and the Court has to refer the matter directly to the handwriting expert, if the Court formed an opinion that such verification is necessary and under the interest of justice. Thus, the Interlocutory Application filed for appointment of an Advocate Commissioner in a suit for recovery of money itself is untenable and in the present case, for verification of signature of the parties, Advocate Commissioner may not be a suitable person, since the Commissioner is not an expert person for verifying the signature of the parties either in the Promissory Note or in any document.



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6. Thus, the Petitioner is at liberty to file an appropriate application in the manner known to law.

7. As far as the present Interlocutory Application, which was dismissed is concerned, this Court do not find any infirmity in respect of the findings in the order. Consequently, the Civil Revision Petition stands dismissed. No costs. Connected civil miscellaneous petition is closed.

**06.12.2022**

kak/skr  
Index : Yes  
Speaking order

To

The I Additional District Judge,  
Coimbatore.



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**S.M.SUBRAMANIAM., J**

kak/skr

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