



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Monday, the Fifth day of September Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CMP(MD) No.3231 & 3234 of 2022

IN

AS(MD) No.9 of 2013

S.P.A.BASKARAN

... PETITIONER/APELLANT
IN BOTH PETITIONS

Vs

N.SURESHKUMAR

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to stay all the further operation in its order dated 17-02-2022 in the A.S.(MD).No.9 of 2013.

Prayer in CMP(MD) . 3234/ 2022 :

To review and modify its order dated 17-02-2022 and to issue one comprehensive Commission with the ambit of reference on the facts on the facts of the Exhibit A.1 on which of them this Honourable court wants to Hold a Scientific, Technical and Hand Writing Expert Investigation in the Exhibit A.1, and reports facts of the reference made therein to this Honourable Court.

Prayer in AS(MD)No.9/2013:

Pleased to prefer this Memorandum of Regular Appeal against the Judgment and Decree of the learned Additional District Judge, Thoothukudi passed in O.S.No.1 of 2011 and I.A.No.195 of 2011 Dated 11.06.2012

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of S.P.A.BASKARAN, PARTY IN PERSON, in



Both Petitions and of none appeared for the Respondent side. In person or by an advocate in Both Petitions, the court made the following order:-

COMMON ORDER

(Order of the court was made by N. ANAND VENKATESH, J.)

These Civil Miscellaneous Petitions have been filed by the petitioner/appellant seeking to review and modify the order passed by this Court on 17.02.2022, mainly on the ground that there has to be a comprehensive expert opinion that must be received and it is not enough to confine the order only to test the disputed signature in the promissory note with that of the admitted signature of the petitioner.

2. When this Court passed the order on 17.02.2022, this Court took into consideration all the applications that were filed by the petitioner namely, the application for production of additional documents, the application to send the signature of the petitioner for comparison with the admitted signature and the application seeking for permission to adduce additional evidence.

3. After considering all these applications, as a first step, this Court wanted to get an expert opinion on the disputed signature found in the promissory note. This procedure was adopted by this Court, since the very basis of claim made by the respondent / plaintiff seeking for recovery of money was based on the signature found in the promissory note and therefore, if the very signature is disputed, it has to be first tested by calling for an expert opinion. Once the expert opinion is received, depending upon the opinion, this Court will necessarily consider the other applications that have been filed by the petitioner.

4. The petitioner appearing in person wants a comprehensive order to be passed by taking into consideration all the applications. It is not the convenience of the petitioner that is paramount and this Court has to first satisfy itself as to whether the claim made by the respondent/ plaintiff is sustainable, in view of the appellant/defendant questioning the very signature found in the promissory note.

5. In view of the above, this Court does not find any ground to review or modify the order passed on 17.02.2022. However, in order to allay the apprehensions raised by the petitioner, it is made clear that all the other requests that have been made by the petitioner in the other applications will be considered after receiving the opinion of the expert.



WEB COPY

CMP(MD) No.3231



22

6. Both these Civil Miscellaneous Petitions are disposed of accordingly.

sd/-

05/09/2022

/ TRUE COPY /

/09/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE ADDITIONAL DISTRICT JUDGE,
THOOTHUKUDI.

ORDER IN

CMP(MD) No.3231 & 3234 of 2022

IN AS(MD) No.9 of 2013

Date :05/09/2022

rm

SA/SVR/SAR.2/07.09.2022/3P/2C