



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(PD) (MD) No.859 of 2020

and

C.M.P.(MD) No.5698 of 2020

Ganapathiappa Nadar

.. Petitioner/Petitioner/
Defendant

-vs-

Senthil Kumar

.. Respondent/Respondent
Plaintiff

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 11.12.2019 made in I.A.No.1 of 2019 in O.S.No.186 of 2012 on the file of the Principal Subordinate Court, Srivilliputhur.

For Petitioner : Mr.P.M.Vishnuvarthanan
for Mr.A.Balaji

ORDER

The defendant in a suit for promissory note is the revision petitioner before this Court challenging the order, dated 11.12.2019, passed by the learned Principal Subordinate Judge, Srivilliputhur, in I.A.No.1 of 2019 in O.S.No.186 of 2012 in and by which, the learned Judge had dismissed the application filed by the petitioner for summoning S.Anandappan and Raveendran as witnesses on his side and for marking two documents.

2.The suit on a promissory note has been filed by the respondent against the revision petitioner contending that on 20.05.2010, the defendant had borrowed a sum of Rs.1,00,000/- and executed a promissory note for the same.



3.The defence of the petitioner was that the promissory note is a rank forgery and no such document had been executed by him in favour of the plaintiff. It was his case that the plaintiff was the grandson of one M.Rajendra Nadar, who was the Correspondent in the School in which, the defendant had worked for the years 1998 to 2001. Certain issues had cropped up between the defendant and the said M.Rajendran as a result of which, the promissory note came to be fabricated and that it has been fabricated is further confirmed by the fact that one of the witnesses is a person, who is an employee in the plaintiff's shop for a very long time. When the suit was posted for the defendant's side evidence, the petitioner has come forward with the impugned application.

4.In the affidavit filed in support of the said application, the petitioner would contend that on 08.05.2009, S.Anandappan had issued a notice in the name of M.Rajendra Nadar to the defendant and on 07.05.2004, another notice had been issued at the behest of Raveendran in the name of P.W.2. He would submit that the Advocates had to be examined to prove not only the issuance of the notices, but also the fact that it is M.Rajendra Nadar, who is behind the entire suit and who has fabricated the documents.

5.The said application has been dismissed by the learned Principal Subordinate Judge, Srivilliputhur on 11.12.2019. The learned Judge has held that the petitioner is seeking to examine these two Advocates even before his evidence and the same cannot be ordered. Challenging the same, the revision petitioner is before this Court.

6.Heard the learned counsel for the petitioner.

7.The reason for seeking to examine the two Advocates does not find support from the pleadings in the written statement. The written statement is silent about these documents. That apart, as rightly held by the learned Principal Subordinate Judge, Srivilliputhur, this application is filed to examine the witnesses even before the examination of the defendant. The defence of the revision petitioner is that the promissory note is a rank forgery and that he has not executed the same. To prove the above contention, there is no necessity to examine the Advocates, who have only discharged their professional duty. That apart, the two documents that are sought to be marked through these Advocates are not issued either by the plaintiff or by his grandfather.

8.In the above circumstances, I do not find any reason to interfere with the order dated 11.12.2019 of the learned Principal Subordinate Judge, Srivilliputhur, passed in I.A.No.1 of 2019 in O.S.No.186 of 2012 and the same is confirmed. Consequently, this



Civil Revision Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Principal Subordinate Judge,
Srivilliputhur.

Copy to:

The Section Officer, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P. (PD) (MD) No.859 of 2020

Dated: 10.01.2022

MGJ(27.01.2022) 3P 4C