BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**CRP(MD)Nos.1963, 2008 of 2022**
**and**
**CMP(MD)Nos.9011, 9213 of 2022**

S.Anantharaj : Petitioner in both CRPs

Vs.

Y.Sleebachen : Respondent in both CRPs

**COMMON PRAYER:** Petitions filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal orders dated 16.02.2022 passed in I.A.Nos.195 of 2016 & 1 of 2021, respectively, in O.S.No.70 of 2016 on the file of the I Additional District Court, Tirunelveli and set aside the same.

For Petitioner : Mr.P.P.Alwin Balan
For Respondent : Mr.A.K.Baskarapandiyan
[In both CRPs]

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**ORDER**

The petitioner is the plaintiff in the suit in O.S.No.70 of 2016 on the file of the I Additional District Court, Tirunelveli. He filed the suit for recovery of money as against the respondent, based on a pro note dated 05.08.2013. The respondent denied his signature found in the pro note and has filed I.A.No.195 of 2016 under Order 26 Rule 10A CPC to send the pro note to the Forensic Science Department for comparison of the signature found in the pro note with any other admitted signature. He has also filed I.A.No.1 of 2021 under Order 8 Rule 3(a) CPC to receive the copies of the Income Tax Returns for the period 2013-14, 2014-15 & 2015-16 for the purpose of comparing the signatures. The trial Court, by order dated 16.02.2022, allowed these interlocutory applications and aggrieved over the same, the petitioner has moved the instant revision petitions.

2.Learned Counsel for the petitioner submitted that the Income Tax Returns or the documents which came into existence after the pro note could not be relied upon. Moreover, the xerox copies of the Income Tax Returns were produced by the respondent for comparison, which is not acceptable. Without considering these aspects, the trial Court has mechanically allowed the petitions and therefore, he prayed for interference.

3.Learned Counsel for the respondent submitted that the suit is filed based on a pro note and the respondent / defendant has taken a specific plea disputing his signatures found in the pro note. Therefore, he has filed the interlocutory applications for receiving the documents and for comparing the signatures. In fact, in the affidavit filed before the trial Court, he has referred about the arbitration proceedings initiated as against this respondent in Arb.OP.No.170 of 2009 before the District Court, Tirunelveli and requested for comparing the signatures of this respondent found in the vakalath and the counter affidavit in that proceedings. However, the trial Court has referred the copies of the Income Tax Returns for the purpose of comparing the signatures. Therefore, the respondent claims that these documents can also be referred along with the Income Tax Returns for the purpose of comparing the signatures.

4.This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

5.The petitioner / plaintiff has filed the suit in O.S.No.70 of 2016 for recovery of money based on a pro note dated 05.08.2013. The respondent / defendant has filed his written statements disputing the signatures found in the pro note and also filed the interlocutory applications to refer the signatures found in the pro note for comparison with the admitted signatures. The trial Court allowed the applications and referred the copies of the Income Tax Returns for the period 2013-14, 2014-15 & 2015-16 for comparing the signatures.

6.It appears that in the affidavit filed in I.A.No.195 of 2016, the respondent has requested to compare the signatures found in the counter affidavit filed in Arb.OP.No.170

of 2009, dated 15.03.2010 and in the vakalath of that proceedings. Admittedly, these proceedings were prior to the date of the pro note. However, the trial Court thought it fit to refer the Income Tax Returns for the purpose of comparing the signatures found in the pro note.

7.This Court does not find any error in the order of the trial Court and the same does not warrant any interference. However, considering the grievance of the petitioner that the Income Tax Returns after the date of the pro note were referred for comparison, the trial Court shall also refer the counter affidavit filed by the respondent herein in Arb.OP.No.170 of 2009 dated 15.03.2010, along with the Income Tax documents, for comparison. If the petitioner is particular that the original Income Tax Returns alone have to be compared with the pro note, it is always open to him to file an application to call for the records from the Department concerned, if so advised.

With the above observations and directions, both the revision petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions stand closed.

Index : Yes / No **22.12.2022**
Internet : Yes
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To

The I Additional District Judge,
Tirunelveli.

**B.PUGALENDHI, J.**

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**22.12.2022**