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CRP No.795 of 2023
and CMP.No.6081 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

THE HONOURABLE Dr.JUSTICE **D.NAGARJUN**

CRP.No.795 of 2023

and

CMP.No.6081 of 2023

Dr.Yuhi Sethu

... Petitioner

-Vs-

B.Suresh Kumar

... Respondent

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the 'A' Dairy order passed by the learned XIX Additional City Civil Court, Chennai in O.S.No.9067 of 2021 dated 07.03.2023.

For Petitioner	:	Mr.S.R.Raghunathan for Mr.B.Thilak Narayanan
For Respondent	:	Mr.K.Sakthivel

ORDER

This Civil Revision Petition is filed against the order dated 07.03.2023 passed by the XIX Additional City Civil Court, Chennai.



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2. The petitioner is the defendant in the suit filed by the respondent/plaintiff seeking recovery of a sum of Rs.64,08,822.00/-. When the matter is posted for arguments, the suit was suo-motu reopened by the Court and issued following directions:-

“A Diary Dated 7/3/2023:-

Clarification – Both counsels present. Records perused. The defendant has denied the execution of documents as well as his signature. Hence, it has become necessary to get an expert opinion. Hence defendant is directed to produce documents with admitted signature pertaining to two years before or after the disputed documents, further to appear before this court in person to obtain his signature call on 16/3/2023.”

3. It is submitted by the counsel on record for the revision petitioner that once the petitioner/defendant has submitted his evidence and once matter is posted for arguments, the Court cannot *suo-motu* reopen the case seeking expert opinion, when plaintiff did not seek for expert opinion. The learned counsel for the respondent has submitted that the Court has got every right to reopen the case and direct the disputed signature be verified by handwriting expert in order to resolve the dispute between the parties.



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4. Trial Court is expected to decide the issues before the Court basing on the evidence place by both sides. If the defendant has denied the execution of the document, it is for the plaintiff to prove that the document is executed by the defendant. Court can also compare the disputed signature with that of the admitted one under Section 73 of Indian Evidence Act and without there being an application by the plaintiff the trial Court should not have *suo-motu* re-opened the case for sending the document to the handwriting expert.

5. Considering the facts and circumstances of the case, this Civil Revision Petition is allowed. The order dated 07.03.2023 passed by the learned XIX Additional City Civil Court, Chennai in O.S.No.9067 of 2021 is hereby set aside. There shall be no order as to costs. Consequently, connected CMP is also closed.

13.04.2023

kmi

To

1. The XIX Additional City Civil Court,
Chennai.



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Dr.D.NAGARJUN, J.

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