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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2302 of 2023

and

C.M.P.No.13996 of 2023

L. Magesh

...Petitioner

.Vs.

D.V. Aadhi Lakshmi

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 17.02.2023 vide in I.A.No.3 of 2022 in O.S.No.5820 of 2022 on the file of Hon'ble I Assistant City Civil Court, Chennai and pass orders.

For Petitioner : Mr.S. Menaka

For Respondent : Mr.J. William Shakespeare



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ORDER

This petition is filed to set aside the order dated 17.02.2023 vide in I.A.No.3 of 2022 in O.S.No.5820 of 2022 on the file of I Assistant City Civil Court, Chennai .

2. The facts of the case is that the respondent herein has filed a petition under Order XXXVII Rule 3 of CPC seeking to leave to defend the above case in I.A.No.3 of 2022 in O.S.No.5820 of 2022 and the same was allowed vide order dated 17.02.2023. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the Court below failed to verify the vital aspect that the signature of the respondent is not unique and it differs in all the documents. Furthermore to arrive at a conclusion the signature of the respondent was not sent to comparative analysis and allowed the I.A which is not fair. Hence he prays to allow this petition.



4. The learned counsel for the respondent submitted that the Court below has gone into each and every aspects in detail and passed the impugned order, which does not require interference by this Court. Hence he prays to dismiss this petition.

6. On a perusal of the records it is seen that the petitioner herein has filed a suit in O.S.No.5820 of 2022 before the City Civil Court at Chennai to pass a Judgment and a decree directing the defendant to pay to the plaintiff a sum of Rs.1,13,600/- towards outstanding together with further interest at the rate of 36% per annum on the principal sum of Rs.80,000/- (Rupees Eight Thousand Only) from the date of plaint till the date of realization. Thereafter, the respondent herein has filed I.A.No.3 of 2022 in O.S.No.5820 of 2022 on the file of I Assistant City Civil Court, Chennai and the same was allowed vide order dated 17.02.2023, wherein the learned Judge has made an observation that the issues regarding the disbursement of loan, execution of pronote and comparison of signatures requires a detail full fledged trial and the same cannot be decided in the I.A. The said finding of the learned Judge is perfectly valid in the eye of law and



the same cannot be brushed aside easily. Hence, the impugned order does not warrant interference by this Court.

7. In view of the above, this Court is not inclined to interfere with the order dated 17.02.2023 passed in I.A.No.3 of 2022 in O.S.No.5820 of 2022 by the learned Judge I Assistant City Civil Court, Chennai and the same is hereby confirmed. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

13.09.2023

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Index : Yes/No

Internet: Yes/No

To.

1. The I Assistant City Civil Court, Chennai

V.BHAVANI SUBBAROYAN,J.

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