



WEB COPY



C.R.P.No.4660 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4660 of 2023

and

C.M.P.No.27723 of 2023

Kavitha

... Petitioner

-Vs-

Alwin Stainlas Raja

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 13.10.2023 passed in I.A.No.5 of 2023 in O.S.No.40 of 2019 on the file of Principal District Judge, Tiruvannamalai.

For Petitioner : Mr.S.Suseela Devi

ORDER

Challenging the impugned order passed in I.A.No.5 of 2023 in O.S.No.40 of 2019 passed by the learned Principal District Judge, Tiruvannamalai, the Revision Petitioner/defendant preferred this Civil Revision Petition.



C.R.P.No.4660 of 2023

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the Revision Petitioner/defendant filed an application to appoint an advocate commissioner to send the cheque marked as Ex.A1 along with certified copy of sale deed dated 25.08.2014 marked as Ex.B1 to the handwriting expert for comparison of signatures of her. That application was dismissed by the trial judge on hearing objections from the plaintiff stating that the alleged signature in cheque Ex.A1 is of the year 2019 and the signature found in sale deed executed is of the year of 2014, both are not contemporaneous one. Aggrieved over the same, the Revision Petitioner/defendant preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that the bank account was not opened by herself and only her husband by forging her signature opened the account and obtained cheque book so that she can make the signature in the cheque slip, which is not belong to her. To prove the same, she filed an application to appoint an advocate commissioner to take out the suit cheque marked as Ex.A1 and the sale



C.R.P.No.4660 of 2023

deed dated 25.08.2014 marked Ex.B1 to the handwriting expert. But, without considering her submissions, the trial judge dismissed the said application. Hence, she prayed to set aside the findings of trial judge.

5. Records perused. On seeing the facts, it reveals that her husband has committed suicide and hence, she was indebted to the respondent. Now, the Revision Petitioner/defendant is conducting the case stating that signature found in cheque slip Ex.A1 is not belong to her. So, she wanted to send the same for expert opinion along with the signature found in the Sale deed of the year 2014. She relied only 2014 sale deed is not much older one. Therefore, the trial judge ought to have given opportunity to her to prove her claim, but without considering her defence, the trial judge dismissed the application as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of trial judge in I.A.No.5 of 2023 in O.S.No. 40 of 2019 is set aside and the said application is ordered to be allowed. The trial judge is directed to appoint an advocate commissioner to take the original sale deed from the custody of the bank, where the Revision Petitioner/defendant mortgaged and the send the document to forensic laboratory within a



C.R.P.No.4660 of 2023

period of three weeks from the date of receipt of copy of this order as per manner known to law. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

18.12.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

To

The Principal District Judge, Tiruvannamalai.

T.V.THAMILSELVI, J.



WEB COPY



C.R.P.No.4660 of 2023

rpp

C.R.P.No.4660 of 2023

18.12.2023