



CRP(MD).No.377 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.377 of 2023

and

C.M.P(MD).No.1831 of 2023

1.M/s.Nishok Impex, a Partnership Firm
rep., by its Managing Partner,
K.Ramesh

2.K.Ramesh .. Petitioners/Petitioners/Defendants 1 and 2

Vs.

Shri Eshan Enterprises,
rep., by its Managing Partners,
KAS.Esvaramurthi and
E.Shembakavalli ... Respondent/Respondent/Plaintiff

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order passed in I.A.No.2 of 2021 in O.S.No.149 of 2019 dated 09.11.2021 on the file of the Principal District Court, Karur in so far not directing the comparison of the disputed hand writing in the endorsement dated 19.07.2019.

For Petitioners : Mr.H.Arumugam
For Respondent : Mr.Raghuvaran Gopalan



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ORDER

The present revision petition has been filed by the defendants 1 and 2 in a suit for recovery of money based upon the pro-notes.

2. According to the plaintiff, the second defendant has executed three pro-notes on 31.08.2013 and another pro-note on 25.09.2013. The plaintiff had further contended that in all the four pro-notes there is an endorsement on 01.08.2016 making some payments. Thereafter, there was an second endorsement on 19.07.2019. The present suit has been filed on 18.11.2019 relying upon the second endorsement in all the four pro-notes for the purpose of limitation.

3. The defendants have taken a defence that the second endorsement in all the four pro-notes has been forged to bring the suit within the period of limit ation. The handwriting, the signature and the seal of the first defendant have been forged by the plaintiff. However, the defendants have admitted the first endorsement made in all these four pro-notes on 01.08.2016.



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4. Based upon the aforesaid pleadings in the written statement, the defendants had filed I.A.No.2 of 2021 to send the pro-notes for expert opinion to find out the veracity of the handwriting, signature and seal of the first defendant herein. While allowing the said application, the trial Court has rejected the request of the defendants with regard to the comparison of seals. The said portion of the order is not under challenge. The trial Court has accepted the request of the defendants for comparing the handwriting and referred the matter for expert opinion. The said portion of the order has not been challenged by the plaintiff.

5. The learned counsel for the petitioners submitted that the present revision petitioner has been filed challenging the order of the trial Court with regard to not allowing the application with regard to comparison of the handwriting in the second endorsement on the ground that it has been mentioned that it is a சுகஸ்கலிதம். The defendants 1 and 2 have prayed that the handwriting in the first endorsement may be compared with the handwriting in the second endorsement so as to arrive at truth.

6. I have perused the plaint written statement and the pleadings in the interlocutory application.



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7. The defendants 1 and 2 have specifically admitted the first endorsement in all the four pro-notes on 01.08.2016. However, the defendants have specifically disputed about the second endorsement on 19.07.2019. The Court has proceeded to permit the defendants to send the pro-notes for expert opinion to compare the signature of the second defendant found in the second endorsement to be compared along with the signature of the second defendant in the first endorsement and the pro-notes. However, the Court was silent about the comparison of the handwriting found in the second endorsement. This has prompted the defendants 1 and 2 to file the present revision petition.

8. The defendants 1 and 2 have filed a memo before the trial Court to bring it to the notice of the Court that despite being a prayer, the Court has not considered the same. The said memo was closed by the trial Court on 12.12.2022 on the ground that it has no power to revise its own order.

9. When the defendants 1 and 2 have specifically disputed the handwriting found in the second endorsement, they are always entitled to



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get their handwriting also compared with the admitted handwriting in the first endorsement on 01.08.2016. When the four pro-notes are sent to expert opinion to compare the signature of the second defendant, the expert shall also compare the handwriting of the second defendant found in the second endorsement with the first endorsement.

10. With the aforesaid observation, the Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.02.2023

Index : Yes / No
Internet : Yes / No
Rmk

To
The Principal District Judge, Karur.



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R.VIJAYAKUMAR ,J.,

Rmk

Order made in
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