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C.R.P.(MD)No.667 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.667 of 2023

P.Prabhu

.. Petitioner

Versus

1.R.Balamurugan

2.P.Selvi

3.Raja

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the order dated 26.10.2022, made in I.A.No.3 of 2022 in O.S.No.569 of 2014, on the file of the II Additional Subordinate Court, Trichy and allow the Civil Revision Petition.

For Petitioner

: Mr.J.Vishnu

ORDER

This Civil Revision Petition has been filed to set aside the order dated 26.10.2022, made in I.A.No.3 of 2022 in O.S.No.569 of 2014, on the file of the II Additional Subordinate Court, Trichy.

2. The 1st respondent herein is the plaintiff in O.S.No.569 of 2014, on the file of the II Additional Subordinate Court, Trichy. Respondent Nos.2 and 3 are Defendant Nos.1 and 2 and the petitioner is the 3rd defendant. The said suit has been filed by the 1st respondent to recover a sum of Rs.3,42,150/-, being the money



allegedly borrowed by one Panneerselvam, who is the father of the petitioner and Respondent Nos.2 and 3. The petitioner as the 3rd defendant has filed written statement on 19.06.2017, stating that he has not succeeded to any estate of his father Late.Panneerselvam. Thereafter, the petitioner has filed I.A.No.3 of 2022 under Order VIII Rule 9 and Section 151 of C.P.C. to receive additional written statement. The said application has been dismissed by the trial Court, vide its order dated 26.10.2022, stating that the petitioner has filed the application only to delay the proceedings. Challenging the same, the present Civil Revision Petition has been filed.

3. I have perused the plaint and the written statement filed by the petitioner [3rd defendant] in O.S.No.549 of 2014, the affidavit filed in I.A.No.3 of 2022 to receive additional written statement under Order VIII Rule 9 read with Section 151 of C.P.C.

4. The facts on record indicate that the petitioner and Respondent Nos.2 and 3 herein had also earlier filed C.R.P.(PD)(MD)No.860 of 2022 and C.M.P.(MD)No. 3439 of 2022 before this Court against the fair and decreetal order, dated 26.11.2021, made in I.A.No.1 of 2020 in O.S.No.569 of 2014, to send the document namely, pronote for comparison of signature to Forensic Department. The said Civil Revision Petition was dismissed by this Court, vide order dated 18.04.2022.



5. The additional written statement filed by the petitioner also merely disputes the signature in the suit pro-note. It is the contention of the learned counsel for the petitioner that the petitioner is not liable to pay any amount to the first respondent/plaintiff. The petition filed by the petitioner is not at the belated stage of the proceedings. However, the fact remains that the application has been filed long after the written statement filed by the petitioner. Therefore, the question of receiving additional written statement under Order VIII Rule 9 read with Section 151 of C.P.C. cannot be countenanced. No issues have been framed so far by the trial Court. It may, therefore, frame an issue as to whether the signature in the suit pro-note, on the strength of which, the above suit has been filed, belongs to Late.Panneerselvam, the father of the petitioner and Respondent Nos.2 and 3 or not?

6. This Civil Revision Petition stands dismissed with the above observation.

No costs.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No

14.03.2023

To

The II Additional Subordinate Judge,
Trichy.



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C.SARAVANAN, J.

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Order made in
C.R.P.(MD)No.667 of 2023

14.03.2023