



C.R.P(MD)No.106 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P(MD)No.106 of 2018

and

C.M.P(MD)No.473 of 2018

Vasantha (Died)

2.Manjamatha

(2nd petitioner is brought on record as

LR of the deceased sole petitioner vide

Court order dated 12.07.2023)

... Petitioners

.vs.

1.Ramesh

2.G.K.Suresh

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decretal order in I.A.No. 162 of 2016 in O.S.No.164 of 2015, dated 15.04.2016 on the file of the 5th Additional District Court, Madurai.

For Petitioner

:Mr.P.Santhana Krishnan

For R1 & R2

:Mr.PT.S.Narandravasan



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ORDER

The first defendant in the suit is the revision petitioner. Before the trial Court, the first defendant has filed I.A.No.162 of 2016 seeking to compare the disputed signatures found in the documents 2,9,13 and 14 with items 1,5 & 6 in the plaint index, vakalat and written statement. The said application was resisted by the respondents/plaintiffs and the trial Court dismissed the said application on the ground that the documents that are containing the admitted signatures are not contemporaneous documents and further, the signature in the vakalat and the written statement cannot be compared with the disputed documents. Aggrieved by the said order, the present revision has been filed by the first defendant.

2. I have heard the learned counsel appearing for the revision petitioner as well as the learned counsel for the respondents/plaintiffs.

3. Insofar as the claim of the plaintiffs, it is seen from the plaint, that the plaintiffs have sought for recovery of money, due from the defendants on the strength of a document executed and styled as Debt



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Confirmation Deed, dated 14.03.2011. In the written statement filed by the first defendant, she has categorically denied the execution of the said document and that apart, the first defendant has stated that she never borrowed any money from the plaintiffs.

4. The suit is in a part-heard stage and the plaintiffs' side evidence has been concluded and the defendants are in the box. In view of the specific denial of the execution of the alleged Debt Confirmation Deed, dated 14.03.2011, the trial Court ought to have entertained the application and allowed the request of the petitioner/first defendant seeking comparison of signature. However, at the same time, it is to be noted that the prayer sought for in the said interlocutory application was seeking to compare the suit documents Nos.1,5 & 6 along with vakalat and written statement with the disputed signature found in suit document Nos.2,9,13 & 14. The dispute revolves around the Debt Confirmation Deed, dated 14.03.2011 which is listed as suit document No.13. The suit document No.1 is the sale deed which is of the year 1992 and the same cannot be said to be a contemporaneous document. However, I find that the documents Nos.5 & 6 are dated 17.08.2008 and 18.08.2009. Though they are unregistered notarized Gift Settlement Deeds executed in favour



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of the defendants 2 & 3, they have been filed as documents by the plaintiffs themselves. Therefore, the signature of the petitioner / first defendant in these documents being nearer in point of time to the Debt Confirmation Deed can be compared, however, the request in respect of other documents stands rejected. The trial Court shall appoint an Advocate Commissioner to take the suit document No.13, namely, Debt Confirmation Deed, dated 14.03.2011, the disputed signature and have the same compared with the sit documents 5 & 6, which are Gift Settlement Deeds dated 17.08.2009 and 18.08.2009 respectively, which are admitted signatures of the petitioner / first defendant and take the same to the handwriting Forensic Expert, who shall gave a report in a sealed cover and the Advocate Commissioner shall file the said sealed cover containing the report of the expert to the Court. This exercise shall be completed within a period of four weeks.

5. Taking into consideration that the suit is in a part-heard stage and is of the year 2015, the trial Court shall make every endeavour to dispose of the suit within a period of three months from the date of receipt of the report of the handwriting expert.



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6. Accordingly, this Civil Revision Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

Index: Yes/No

Internet: Yes/No

NCC: Yes/No

AM

06.12.2023

Note: Issue Order copy on 08.12.2023

To

The 5th Additional District Court, Madurai.



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P.B.BALAJI,J.

am

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