



CRP No.218 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP.No.218 of 2024

and

CMP.No.1026 of 2024

1.S.Pasupathy

2.P.Prema

...

Petitioners

/vs/

B.Goppana

...

Respondent

PRAYER : This civil revision petition has been filed under Article 227 of the Constitution of India to call for the records in I.A.No.4 of 2023 dated 18.10.2023 in O.S.No.224 of 2019 on the file of I Additional District Court, Thiruvallur and set aside the same.

For Petitioners

... Mr.N.Mahendra Babu

ORDER

This civil revision petition has been filed to set aside the order dated 18.10.2023 passed in I.A.No.4 of 2023 in O.S.No.224 of 2019 on the file of I Additional District Court, Thiruvallur.



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2.The revision petitioners are the defendants and the respondent is the plaintiff in O.S.No.224 of 2019 on the file of the I Additional District Court, Thiruvallur. The respondent /plaintiff filed the above suit against the petitioners/ defendants based upon the promissory notes dated 21.12.2015, 20.01.2016, 27.01.2016, 10.02.2016, 14.02.2016, 17.02.2016, 02.03.2016, 08.07.2016, 09.07.2016, 29.11.2016, 18.03.2017, 12.05.2017 and 02.07.2018 claiming a sum of Rs.35,79,272/- from the petitioners/defendants together with interest at 18% per annum.

3.The learned counsel appearing for the petitioners/defendants submitted that the petitioners/defendants filed their written statement and defended the suit. In this regard, the relevant paragraphs 7 & 8 of the written statement run as follows:

“7.The defendants was regular in paying interest for the prior loans by hand cash and the plaintiff offered unreasonable new loan with in few months, within very short period of time, bombarded with many offer of loan voluntarily and many new loan agreement and promissory note was made by calculating and subtracting then paid



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interest of the month.

8. Till the end of 18.03.2017, the defendants had received the total principle loan amount of Rs.13,35,000/- from the plaintiff, with annual interest rate of 72% per annum for this principle loan amount the defendants had paid the interest amount of Rs.12,48,000/- till the month of January of 2018.”

Pending trial, the petitioners/defendants filed an application in I.A.No.4 of 2023 with the following prayer;

“(a). As such I respectfully pray to honorable court may be pleased to refer the above said deeds dated 21.12.2015, 20.01.2016, 27.01.2016, 10.02.2016, 14.02.2016, 17.02.2016, 2.03.2016, 09.07.2016, 12.05.2017 and 02.07.2018 to the Forensic Expert to render opinion about signature of the plaintiff, defendant, plaintiff's wife and other witness of the deed, in all the deeds whether they are identical, similar and uniform and to determine the age of the ink in deeds and the age of the deeds itself and pass such other suitable order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.



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(b). Direct the plaintiff/mortgagor to produce the original land documents and koor chit in the court and to order the termination of the mortgage deed due to forgery committed by the mortgagor and pass such orders as this honourable court may deem fit and proper in the circumstances of the case and thus render justice.”

which is rejected by the trial Court. Aggrieved by this, the petitioners/defendants filed the civil revision petition.

4. Further, the learned counsel appearing for the petitioners/defendants submitted that the documents are based on for the suit, in order to establish the petitioners/defendants' case, the age of the ink and the age of the deeds have to be determined by sending the documents to forensic lab, hence, the trial Court, without considering the fact, dismissed the application and thus, the petitioners/defendants prayed to allow the civil revision petition.



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5. On perusal of the materials available on record, it is noticed that the suit based upon the promissory notes executed by the petitioners/defendants. All Promissory notes have been filed along with the plaint under the list of documents. Further, on perusal of the written statement filed by the petitioners/defendants, it is noticed in paras 7 & 8, they admitted the promissory notes and paid interest in pursuance of the promissory notes. Under such circumstances, they filed an application in I.A.No.4 of 2023 with the following prayer.

“(a). As such I respectfully pray to honorable court may be pleased to refer the above said deeds dated 21.12.2015, 20.01.2016, 27.01.2016, 10.02.2016, 14.02.2016, 17.02.2016, 2.03.2016, 09.07.2016, 12.05.2017 and 02.07.2018 to the Forensic Expert to render opinion about signature of the plaintiff, defendant, plaintiff's wife and other witness of the deed, in all the deeds whether they are identical, similar and uniform and to determine the age of the ink in deeds and the age of the deeds itself and pass such other suitable order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.



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(b). Direct the plaintiff/mortgagor to produce the original land documents and koor chit in the court and to order the termination of the mortgage deed due to forgery committed by the mortgagor and pass such orders as this honourable court may deem fit and proper in the circumstances of the case and thus render justice.”

6.The prayer in the affidavit petition is to determine the age of the ink and the age of the deeds. It has been decided that forensic opinion with regard to the age of the ink and the age of the deeds is not conclusive proof to decide the case. Under such circumstances, I find no infirmity in the impugned order and there is no ground to interfere with the same and I find no merit in the civil revision petition. Accordingly, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
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To

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