



Crp No.237 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP No.237 of 2024 and
CMP No.1108 of 2024

M.Shakila

... Petitioner

Vs.

T.V.Gunasekaran

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 05.12.2023 made in I.A.No.9/2023 in O.S.No.49/2016 passed by the Subordinate Judge, Perundurai.

For Petitioner : Mr. M.Guruprasad

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 05.12.2023 made in I.A.No.9/2023 in O.S.No.49/2016 passed by the Subordinate Judge, Perundurai.



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2. The petitioner herein the defendant and the respondent herein is the plaintiff in the above said suit and it was filed for recovery of a sum of Rs.7,00,000/- from the petitioner, based on the promissory note. During trial, the petitioner was examined as DW1 and subsequently, she filed the application in I.A.No.9/2023 to permit the petitioner's husband as DW1 on behalf of herself. The above said application was dismissed, challenging the same, the present civil revision petition has been filed.

3. The learned counsel for the petitioner submitted that the petitioner is suffering from physical ailment and she is not able to stand for a long time for cross examination. He further submitted that, the husband of the petitioner is well aware of the suit proceedings and he is a competent witness to depose on behalf of his wife. Therefore, the impugned order is liable to be set aside.

4. Heard the learned counsel for the petitioner and I have perused the materials on record.

5. Admittedly, the suit has been filed for recovery of money based on



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the promissory note against the petitioner and she has been examined in chief as DW1. A perusal of the materials reveals that, earlier, the petitioner filed an application to eschew her evidence and the same was dismissed and hence, again, she filed another application to permit her husband to depose evidence as DW1 in her place, for cross examination, since he is suffering from various ailments and not able to stand for a long time. Further, it is alleged by the respondent/plaintiff that the thumb impression found in the promissory note has been tampered, after it was produced before the court, and the forensic lab has also returned the promissory note for the reason that the thumb impression on the promissory note is overlapped and smudged. Therefore, this court is of the view that the petitioner is wanted to avoid for cross examination, on the ground of ailments, which is unacceptable. As such, the learned Judge has rightly dismissed the petition and I find no infirmity to interfere over the same. Hence, this civil revision petition is liable to be dismissed, as it has no merits.

6. Accordingly, this civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

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To
WEB COPY The Subordinate Judge, Perundurai.



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V.SIVAGNANAM, J.

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