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C.R.P.No.1013 of 2024.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1013 of 2024 and
C.M.P.No.5242 of 2024

P.Eswaran

... Petitioner

Vs.

K.Subramaniam

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order in I.A.No.1 of 2019 in O.S.No.30 of 2017 dated 02.01.2024 of the learned Sub-Ordinate Judge, Thiruchengode.

For Petitioner

:M/s.S.Suneetha

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to determine the age of the promissory note and the revenue stamp affixed thereon.



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2. The respondent herein filed a suit for recovery of money based on promissory note. The petitioner, who was arrayed as defendant filed a written statement denying the execution of promissory note. It was his case that suit promissory note was executed as a security for one Subramaniam and there was no transaction between the petitioner and respondent. The petitioner filed an application in I.A.No.1 of 2019 seeking appointment of Advocate Commissioner to send the questioned promissory note dated 09.03.2016 to Nasik Mintz Factory for the purpose of ascertaining the age of the promissory note paper and also the age of the revenue stamp affixed thereon.

3. This Court in C.R.P(PD).No.4044 of 2019 has taken a view, following earlier decision, that there is no technology available to ascertain the age of the ink or promissory note. The relevant observation of this Court in the above matter reads as follows:

*“4. This Court in **R.Jagadeesan vs. N.Ayyasamy** reported in **2010 (2) MLJ (Crl) 659**, dismissed the applications seeking expert opinion for determination of*



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age of the ink mainly on the ground that there was no scientific method available to determine the age of the ink. The relevant observation of this Court reads as follows:-

“10. In my considered opinion, a careful reading of the said Judgment would also go to show that there was no occasion for the learned Judge to answer the question as to whether there is any expert available in terms of Section 45 of the Evidence Act to offer any opinion regarding the age of the document. The entire case proceeded under the premise as though there are experts to offer opinion regarding the age of the documents. Now, as I have already stated, the Head of the Department of Forensic Science is before me and from whom I have the benefit of ascertaining that there is no expert in the field and also that all such documents sent already were returned without offering any opinion. Therefore, the said Judgment also would not come to the help of the respondents.

11. In view of all the above, the revisions are allowed and the impugned orders of the learned



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Magistrate are set aside and the request for sending the documents for ascertaining the age of the writings is rejected. Connected miscellaneous petitions are closed. The services rendered by the Assistant Director is appreciated.”

5. When the matter was came up for hearing before this Court on 05.02.2024, this Court directed Mr.V.Jeevagiridharan, learned Additional Government Pleader, who was present in the Court, to get instructions from the Directorate of Forensic Sciences Department, Chennai with regard to the question whether technology is available as on today to determine the age of the ink found in a document.

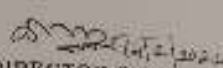
6. As per the direction issued by this Court, Mr.V.Jeevagiridharan, learned Additional Government Pleader obtained a written instruction from the Director of Forensic Sciences Department, Chennai - 600 004 and the scanned copy of the said letter is reproduced hereunder:-



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From:	To:
Thir. I. Vijayalatha, M.Sc., Director (i/c), Forensic Sciences Department, Mylapore, Chennai - 600 004.	The Additional Government Pleader (CS), State Government Pleader Office, Madras High Court, Chennai - 600 004.
T.No.46803/2024	Dated: 14.02.2024
Respected Sir / Madam,	
Sub : Document Division - Age of the Ink Determination - Reg.	
Ref : Your letter No. MFD/CPUS/2024/145 dated 06.02.2024 (C.R.P.No. 4044 of 2019)	
With reference to your letter cited with regard to the questionnaire raised by the Honourable Mr. Justice E. SUNDHAR, "Whether technology is available as on today to determine the age of the ink found in a document". In this connection, I humbly submit that "there is no reliable scientific technique available to determine the age of the ink in a document".	
This is for your favour of information.	
 DIRECTOR (i/c)  14.02.24	

7. Therefore, as per the letter received from the Director of Forensic Sciences Department, Chennai - 600 004, as on today, there is no reliable scientific technology available to determine the age of the ink in a document.



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4. In view of the fact that as on today, there is no reliable technology available to determine the age of the ink or document, this Court is not inclined to accede to the request made by the petitioner. Further, it is pertinent to point out age of the paper even if determined, it cannot be a sole determining factor to come to a conclusion with regard to date of execution of document. In the case on hand, suit promissory note said to have been executed on 09.03.2016 and the suit has been filed on 06.03.2017, within a year. Age of the paper cannot be determined precisely with marginal error less than a year. Further, a paper manufactured in the year 2010 might have been used for execution in 2016. Therefore, even if age of paper is determined, it may not help the Court to come to the conclusion with regard to due execution. The Trial Court rightly dismissed the application and I do not find any error in the order impugned in this revision. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

21.03.2024

Index : Yes / No

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The learned Sub-Ordinate Judge, Thiruchengode.

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S.SOUNTHAR, J.

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