



C.R.P.No.1185 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.1185 of 2022
and
Civil Miscellaneous Petition No.6301 of 2022

Manju ... Petitioner

Vs

Sathiyamoorthi ... Respondent

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set-aside the fair and decreetal order in I.A.No.3 of 2021 in O.S.No.54 of 2019, dated 20.11.2021, on the file of the Subordinate Judge, Perundurai, Erode District.

For Petitioner : Mrs K. Priyavarshini

For Respondent : Mr. Shase,
for Mr.M.Guruprasad

ORDER



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Challenging the order of dismissal passed by the learned Subordinate Judge, Perundurai, in I.A.No.3 of 2021 in O.S.No54 of 2019, dated 20.11.2021, the Civil Revision Petition has been filed.

2. The learned counsel for the petitioner submitted that the respondent/plaintiff filed a suit in O.S.No.54 of 2019 on the file of the Subordinate Court, Perundurai, for recovery of a sum of Rs.4,97,463/- with interest based on a promissory note, against the petitioner/defendant. The petitioner/defendant also contested the suit and filed her written statement denying the execution of promissory note and also the consideration. He would further submit that in order to prove the genuineness of the disputed promissory note, it has to be sent for Expert Opinion for establishing the defendant's defence. The petitioner/defendant has also filed an application in I.A.No.3 of 2021 for sending the promissory note, dated 29.03.2017 for getting an expert opinion of the Tamil Nadu Forensic Department of Chennai, which was dismissed by the learned Judge by passing the impugned order dated 20.11.2021. Aggrieved over the same, the present revision has been filed.

3. The learned counsel for the respondent opposed to allow the revision



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and also submitted that there is no dispute with regard to the thumb impression in the promissory note and in the written statement filed by the petitioner/defendant before the Trial Court and seeks to dismiss the revision.

4. This Court considered the matter in the light of the submissions made by the learned counsel on either side and also perused the materials available on record carefully.

5. On perusal of the materials, it is found that the petitioner is the defendant in O.S.No.54 of 2019 pending on the file of the Subordinate Court, Perundurai, which was filed by respondent/plaintiff for recovery of a sum of Rs.4,97,463/- with interest, based on the promissory note, dated 29.03.2017 alleged to have been executed by the petitioner/defendant. In the said suit, the petitioner/defendant had filed the written statement and disputed the genuineness of the promissory note. Though the petitioner/defendant had disputed the promissory note and filed the application in I.A.No.3 of 2021 for sending the same for getting expert opinion, there is no dispute with regard to the promissory note executed by the defendant. In this regard, paragraph no.6



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of the written statement is extracted as under:

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“ 6. According to the reply notice, the defendant is only a house wife and she has no income or profession on her own. Her husband borrowed the loan from one Gopal of Chennimalai. Since the said Gopal demanded exorbitant rate of interest from her husband, he was driven away to the extent of committing suicide. Subsequently, complaint lodged with concerned police and the said Gopal confessed his illegal activity and handed over the documents obtained by him. While returning back the documents some of the documents including the suit promissory note, were suppressed/retained by him. Now, misusing the said promissory note, the present suit has been filed. It is pertinent note that the plaintiff with the court friend of the said Gopal.”

6. In the absence of any contents denying the thumb impression of the petitioner in the promissory note, it is not necessary to send it for expert



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opinion. Therefore, the Trial Court rightly dismissed the petition and this Court finds no merit in this revision and the same is liable to be dismissed.

7. Accordingly, this Criminal Revision Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

02.01.2024

Index: yes/no
Internet:yes/no
mrp

To

The Subordinate Judge,
Subordinate Court,
Perundurai,
Erode District.



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V. SIVAGNANAM, J.

mrp

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