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C.R.P.(PD).No.1492 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.1492 of 2024 &
C.M.P.No.8067 of 2024

1.Sanjay @ Sanjay Sait
2.Manisha ... Petitioners

-Versus-

1.R.V.Venkatesan
2.S.Karthikeyan
3.S.Muruganandam
4.Marimuthu ... Respondents

Civil Revision Petition under Article 227 of the Constitution of India
against the order dated 13.02.2024 passed by the III Additional City Civil
Court, Chennai in I.A.No.7 of 2023 in O.S.No.2731 of 2019.

For Petitioners : Mr.Anil Rewani

For Respondents : P.Muthukrishnan



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ORDER

This civil revision petition arises against the order dismissing an application filed under Section 45 of the Indian Evidence Act.

2. The case of the plaintiff, which was originally filed before this Court, was that the defendant had executed a promissory note after borrowing a sum of Rs.80,00,000/-. This suit was taken on file as C.S.No.64 of 2017. Thereafter, due to the increase in pecuniary jurisdiction of the City Civil Court, the suit was transferred from the file of this Court to the file of the City Civil Court, Chennai, wherein it was renumbered as O.S.No.2731 of 2019. An application was taken out under Section 45 of the Indian Evidence Act in I.A.No.7 of 2020 in the said suit.

3. The prayer of the defendants 1 and 2 is that they had never borrowed any amount and the signatures found in the promissory note, on the basis of which the suit has been presented, are forged. If the report of an expert is obtained, the fraud committed by the plaintiff will become apparent. Unfortunately for the defendants 1 and 2, they did not file any



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contemporaneous document for the purpose of comparing their signatures with the disputed promissory note.

4. It seems from the order that a request was made to compare the signatures found in the promissory note along with the signatures found in the vakalat and written statement. The court below rightly rejected this submission on the ground that a comparison can be made only with respect to contemporaneous documents that can be produced by the party with the disputed document. Challenging the said order, the present revision has been presented.

5. I have gone through the records and the impugned order.

6. I have to confirm the view taken by the learned trial judge that a disputed document cannot be compared with documents that have come into existence after the suit has been presented. The view taken by the learned trial judge is in line with the consistent view of this Court. Therefore, there is no necessity to interfere with the same.



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7. At this stage, the learned counsel for the petitioners submitted that in case he comes across the documents which are contemporaneous, he may be permitted to renew the application. It is needless to add that if any contemporaneous documents are available and if those documents are produced before the court, then it is always open to the petitioner to file an application for comparison under Section 45 of the Indian Evidence Act.

8. With the above observation, this civil revision petition is dismissed.
No costs. Consequently, the connected miscellaneous petition is closed.

12.04.2024

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Index : yes / no
Neutral Citation : yes / no
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To

The III Additional City Civil Court, Chennai



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V.LAKSHMINARAYANAN, J.

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