



WEB COPY



C.R.P.(PD).No. 2941 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 2941 of 2023

&

C.M.P.No.18175 of 2023

V.Elumalai

...Petitioner

Vs.

M.Arumugam

...Respondent

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.3 of 2023 in O.S.No.2 of 2018, by the II Additional District Judge, Tindivanam, dated 21.07.2023.

For Petitioner : Mr. C.Ravichandran

For Respondent : Mr. R.Thamaraiselvam



WEB COPY



C.R.P.(PD).No. 2941 of 2023

ORDER

The petitioner is the defendant in the suit. He impugns the order passed by the II Additional District Judge, Tindivanam, in I.A.No.3 of 2023 in O.S.No.2 of 2018, dated 21.07.2023.

2. O.S.No.2 of 2018 had been presented for recovery of a sum of Rs.11,58,900/- together with interest at the rate of 12%. On the service of summons, the defendant entered appearance and filed his detailed written statement. He pleaded, *inter alia*, that he does not have wherewithal to give the sum as alleged in the suit. He would further plead that he had received amounts from the daughter-in-law of the plaintiff and had executed blank pro note, in addition to the mortgage deed executed in her favour.

3. On the basis of the pleadings, issues have been framed and the



parties went for Trial. The plaintiff's side evidence is over. The defendant has to enter the witness box. At this stage, the defendant filed an application in I.A.No.3 of 2023 to send the suit pro note to the Forensic Science Laboratory for getting an opinion on the “age of the ink” used for executing the pro note. This application was resisted by the plaintiff.

4. The learned II Additional District Judge, Tindivanam, dismissed the application. Hence, the present revision.

5. Heard Mr.C.Ravichandran for the civil revision petitioner and Mr.R.Thamaraiselvan for the respondent.

6. The position of law with respect to sending the documents to the experts for getting an opinion on the age of the ink had been settled by this Court in ***R.Jagadeesan Vs. N.Ayyasamy and another – 2010 (1) MWN (Cr.) DCC 97***. After summoning the experts from the Forensic Science Department. Mr.Justice S.Nagamuthu held that there



is no development as on today for the Forensic Science Laboratory to submit a report on the age of the ink.

7. Completely different view was taken up by Mr. Justice A.Palanivelu in *Elumalai Vs. Subbaramani – 2011 (3) CTC 616*. The learned Judge held that there is no bar to the Court to send a document to Forensic Science Laboratory to confirm the age of the ink. The said view seems to be a solitary view. This is because after the Judgement of Mr. Justice A.Palanivelu, two learned Judges, namely, Mr. Justice N.Anand Venkatesh and Mr. Justice K.Murali Shankar, have taken a view that there is no mechanism available in the Forensic Science Laboratory to determine the age of the ink. This view had been rendered in C.R.P.(MD).No.601 of 2011 dated 07.10.2021 (*Mr. Justice K.Murali Shankar*), CrI.O.P.No.27520 of 2018 dated 27.01.2021 and CrI.O.P.No.15094 of 2018 dated 27.08.2018 (Mr. Justice N.Anand Venkatesh).

8. The majority of the learned Judges having taken a view that in



C.R.P.(PD).No. 2941 of 2023

the absence of a mechanism to decide on the age of the ink, the application cannot be maintained. Respectfully following the Judgements aforementioned, I am not in a position to come to the rescue of Mr.C.Ravichandran's client.

9. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

12.09.2024

Index : Yes/No
Internet : Yes/No
kan



WEB COPY

To

The II Additional District Judge,
Tindivanam.



C.R.P.(PD).No. 2941 of 2023



WEB COPY



C.R.P.(PD).No. 2941 of 2023

V.LAKSHMINARAYANAN, J.

kan

C.R.P.(PD).No. 2941 of 2023

12.09.2024