



WEB COPY



CRP.No.3345 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.06.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

CRP.No.3345 of 2022  
and CMP.No.17724 of 2022

S.Gopal

...Petitioner/plaintiff

Vs.

V.Thimmarayappa

...Respondent/defendant

**PRAYER:** Civil Revision Petition is filed under section 227 of Constitution of India, to set aside the order dated 28.03.2022 passed in I.A.No.3 of 2021 in O.S.No.253 of 2017 on the file of the Additional Subordinate Judge, Hosur.

For Petitioner : Mr.J.Pradeep  
For Respondent : Mr.R.Jayaprakash

**ORDER**

This Civil Revision Petition has been filed by the petitioner/plaintiff challenging the order dated 28.03.2022 passed in I.A.No.3 of 2021 in O.S.No.253 of 2017 on the file of the Additional Subordinate Judge, Hosur, wherein the petitioner herein has filed the said I.A before the trial Court to compare the disputed signature along with vakalat and served summons of the respondent through expert and the same was dismissed. Aggrieved by the said order, the present civil revision petition has been filed.

2. According to the petitioner, he is the plaintiff in the main suit and the



said suit was filed for recovery of money based on the promissory note. The respondent denied the signature found in the promissory note through his written statement and also he denied the same through his cross examination. Therefore, the signature found in the promissory note has to be compared with the suit vakalat and served summons to the respondent through expert.

3. According to the respondent, he denied the signature found in the suit promissory note. The respondent in his reply notice as well as in his written statement stated that the signature found in the suit pronote is not that of him. However, the petitioner/plaintiff has not come forward to file the petition to send the suit pronote to handwriting expert for comparison of signature immediately after filing the written statement of the respondent. Now after lapse of 4 years only in order to delay the proceedings he filed the present petition. The Court itself can compare the signatures. Therefore, the petition is liable to be dismissed.

4. After hearing both sides, the trial Court has dismissed the petition against which, the present petition is filed.

5. The learned counsel for the petitioner would contend that the



petitioner is the plaintiff in the main suit and he has filed suit for recovery of money based on the promissory note and the respondent/defendant has denied the signature found in the suit promissory note. Therefore, the petitioner/plaintiff has filed the petition before the trial Court to compare the signature found in the suit promissory note along with vakalat filed by the respondent/defendant and the summons served on the respondent/defendant through expert. But the trial Court without considering the case of the petitioner/plaintiff, dismissed the petition. Therefore, the order passed by the trial Court is liable to be set aside.

6. The learned counsel for the respondent would contend that the petitioner/plaintiff has filed suit for recovery of money based on the promissory note. The respondent/defendant already denied the signature found in the suit promissory note through reply notice as well as in the written statement. But the petitioner/plaintiff has not taken any steps immediately after filing of written statement and now after the examination of PW1, only to delay the proceedings filed the present petition. The trial Court after careful consideration of the entire case, correctly dismissed the petition. Therefore, the present Civil Revision Petition is liable to be dismissed.

7. This Court heard both sides and perused the records.



WEB COPY

8. In this case, the petitioner has filed petition to compare the signature found in the promissory note along with vakalat filed by the respondent/defendant and the served summons of the respondent/defendant. It is well settled law that the vakalat of the respondent/defendant and served summons cannot be compared with the suit promissory note since the same are after suit. The petitioner ought to have filed petition to compare the signatures of the admitted documents for the contemporary period of the suit promissory note. In the case on hand, the petitioner has not filed any admitted signatures and therefore, the disputed signature cannot be compared with the vakalat and served summons. Further the petitioner has not filed the petition for expert opinion at the earliest point of time and filed this petition belatedly at the stage of defendant side witnesses. The trial Court also in the order elaborately discussed about the same and correctly dismissed the petition after relying the judgments of this Court. Therefore, there is no perversity or infirmity found in the order of the trial Court.

9. In view of the above said reasons, the present revision petition has no merits and deserves to be dismissed.



CRP.No.3345 of 2022

10. In the result, this civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

WEB COPY

**12.06.2024**

Index : Yes/No

Speaking order/non-speaking order

mpa

To

The Additional Subordinate Judge, Hosur.



WEB COPY



CRP.No.3345 of 2022

P.DHANABAL, J.,

mpa

CRP.No.3345 of 2022  
and CMP.No.17724 of 2022

12.06.2024