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C.R.P.No.4288 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4288 of 2024
and C.M.P.No.23843 of 2024

- 1.M/s. A.R.R.Srinivasan Firm,
A partnership firm represented by its Partner,
Mrs. Geetha Ramanathan
- 2.R.Geetha
3.R.Radhika Rani
4.R.Rekha Devi .. Petitioners

Versus

P.Manoharlal .. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 04.10.2024 passed in I.A.No.8 of 2024 in COS.No.19 of 2023 on the file of the Commercial Court (Senior Civil Judge), Salem.

For Petitioners : Mr.R.Nalliyappan

ORDER

This civil revision petition is at the instance of the defendants 1, 2, 4 and 5 in COS.No.19 of 2023.



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2. COS.No.19 of 2023 has been presented seeking for recovery of money on the foot of promissory note. The executant of the promissory note is one Ramanathan, the husband of the second defendant and the father of the defendants 3 and 4. Mr.Ramanathan passed away. Hence, claiming that the defendants have succeeded to the estate of Ramanathan, the suit came to be filed by the plaintiff.

3. The plaintiff issued a pre-suit notice on 16.03.2022. The said notice was received by the defendants and a reply notice was issued on 08.04.2022. In the reply notice, the defendants admitted to the fact that Ramanathan had executed the promissory note but pleaded that even during his lifetime, he had discharged the promissory note. As the claim of the plaintiff was not satisfied, the plaintiff presented the suit.

4. At the stage of written statement, the defendants took out a plea that Ramanathan never approached the plaintiff for a loan. They further pleaded that he had never executed the promissory note. A careful perusal of the written statement shows that nowhere the defendants pleaded that the reply notice dated 08.04.2022 was issued on wrong instructions.



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5. On the basis of these pleadings, the parties were pushed to trial. The plaintiff's evidence has been completed. He has examined two other witnesses. The defendants are now in the witness box. At that stage, the plaintiff took out an application to appoint an Advocate Commissioner to take Ex.A1 Promissory Note dated 03.01.2020 to a handwriting expert for comparison with the admitted signature of Ramanathan. After receipt of a counter, the learned Commercial Judge dismissed the said petition. Hence, this revision is at the instance of the defendants.

6. Mr.R.Nalliyappan argues that there is a serious dispute on the signature in the promissory note and hence, it should be sent for comparison. He states that the order of the learned Commercial Judge is erroneous and requires to be revised.

7. I have carefully considered the submissions of Mr.R.Nalliyappan.

8. It is clear from the reply notice that has been issued in Ex.A5, the defendants had admitted to the signature of Ramanathan on Ex.A1 Promissory Note. Where a signature in a document is admitted, the question of sending it for Forensic examination does not arise. If only the signature is disputed, and that too from the earliest point of time, the Court should take



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an effort to appoint an Advocate Commissioner to obtain an expert opinion.

In any event, the report of an expert is a weak evidence and does not bind the Court. At the best, it can be used as a collaborative evidence.

9. The learned Commercial Judge has anyway reserved the right of the defendants to invoke Section 73 of the Evidence Act and invite the Court to compare the signature on its own. I only have to confirm the said liberty granted by the learned Judge.

10. I am not able to take a different opinion as that of the learned Commercial Judge. It is open to the defendants to produce admitted signatures of Ramanathan and seek opinion of the Court to compare the same at the time of final disposal.

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

24.10.2024

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no

To

The Commercial Court (Senior Civil Judge), Salem.



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V.LAKSHMINARAYANAN, J.

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