



CRP(MD).No.695 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.11.2024

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THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.695 of 2023 and
CMP(MD).No.3222 of 2023

Chandramohan : Petitioner / defendant

Vs.

Rajendran : Respondent / plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the order, dated 14.11.2022 passed in I.A.No.512 of 2021 in O.S.No.101 of 2015 on the file of the V Additional District Judge, Madurai and set aside the same.

For Petitioner : Mr. P. Rajesh Kanna

For respondent : Mr.V.N. Arjun
for Mr.V. Vallinayagam



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ORDER

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The present revision is preferred against the order, dated 14.11.2022 passed in I.A.No.512 of 2021 in O.S.No.101 of 2015 on the file of the V Additional District Judge, Madurai.

2. The revision petitioner is the defendant in the above suit. The said suit in O.S.No.101 of 2025 was filed by the respondent / plaintiff for recovery of money as if now it is at the stage of arguments. The revision petitioner / defendant filed an application in I.A.No.512 of 2021 in O.S.No.101 of 2025 for sending Exs.B1, B8 and B9 for an expert opinion to establish the fact that son of the respondent / plaintiff has signed the above documents after receiving money from the defendant herein. The said application was resisted on the side of the respondent / plaintiff stating that the said application is filed only to delay the suit proceedings. The trial Court after considering the averments made in the petition and counter affidavit and the arguments advanced on either side dismissed the application stating that there is no necessity for sending the documents for expert opinion at the stage of arguments. Aggrieved by the same the present revision is preferred.



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3. The learned counsel appearing for the revision petitioner / defendant would submit that there is no time limit for filing an application under Section 45 of the Indian Evidence Act, 1872 for sending the disputed signature for expert opinion which would in fact assist the Court to arrive at correct conclusion. He would further submit that it is a specific case of the revision petitioner / defendant that the plaintiff has received exorbitant amount as interest and that criminal complaint was also lodged against the respondent / plaintiff. Hence, the opinion of the expert by comparing the disputed signatures and writing on the above documents is very much necessary to support the case of the defendant. While so the trial Court without considering the above said facts erroneously dismissed the said application which calls for interference by this Court.

4. On the other hand, the learned counsel appearing for the respondent / plaintiff would submit that the suit is of the year, 2015 and at the midst of the arguments the said application was filed belatedly by the revision petitioner / defendant with an intention to drag on the proceedings and the same cannot be entertained. The trial Court has rightly dismissed the said application which calls for no interference by this Court and prays for dismissal of this Civil Revision Petition. In support of his contention



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he has relied on the following Judgments:

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- i) 2008(2) CTC 464 (N.Ayyasamy Vs. S.K.Chinnasamy)
- ii) 2008(2) CTC 580 (M.Govindaraj Vs. Dr.V.Nallasivan)
- iii) 2019 (1) CTC 48 (V.Vijayalakshmi Vs. D.Annalakshmi)

5. Heard both sides and perused the records.

6. It is pertinent to note that the suit is of the year 2015 and the said application for expert opinion was filed in the year 2021 for which no explanation was adduced on the side of the revision petitioner / defendant. When the defendant disputed the signatures in the documents he ought to have taken steps by filing an application for expert opinion earlier. But, no valid reasons adduced on the side of the revision petitioner for not filing the said application in time that too after completion of evidence and the case was posted for arguments. Therefore, under such circumstances, the said application cannot be entertained. The Trial Court has rightly dismissed the application. Therefore, the order passed by the trial Court neither suffers any fundamental perversity or jurisdictional error which warrants interference by this Court.



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7. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes/ No

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To

V Additional District Judge, Madurai.



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trp

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