



C.RP(MD)Nos.1574 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:26.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)No.1574 of 2023
and
C.M.P(MD)No.7700 of 2023**

R.Ramalakshmi

..Petitioner/Petitioner/
Defendant

Vs.

V.Subburaj(Died)

..Respondent/Respondent/
Plaintiff

2.S.Ramani(Died)

3.S.Vijayakumar

4.S.Senthilrajesh

*(R2 to R4 are brought on records as
LRs of the deceased sole respondent
vide Court order dated 04.07.2024)*

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.03.2023 made in I.A.No.4 of 2022 in O.S.No.69 of 2020 on the file of the Subordinate Court, Sattur.



C.RP(MD)Nos.1574 of 2023

For Petitioner
For R2 to R4

:Mr.S.Mahalakshmi
:Mr.C.M.Arumugam

ORDER

The Civil Revision Petition is directed against the order dated 07.03.2023 made in IANo.4 of 2022 in O.S.No.69 of 2020.

2.By the said order, the trial Court dismissed the application filed by the plaintiff to appoint an Advocate Commissioner and send Ex.A1 along with the other admitted signature of the defendant for comparison by the forensic expert and to obtain a report and place it before the Court. The suit is for recovery of money.

3.It is the case of the plaintiff that the petition is filed by the plaintiff on the ground that the defendant has made a specific case that he had signed in yet another blank form, which was given as security and by looking at the same, the plaintiff himself has forged his signature in Ex.A1 and therefore, it is necessary to



C.RP(MD)Nos.1574 of 2023

WEB COPY

ascertain the genuineness of the signature of the defendant in the suit Pronote-Ex.A1.

4.The said application was resisted by the defendant. The defendant has filed a detailed counter affidavit denying the every averment made in the affidavit filed in support of the application and prayed that the application be dismissed. The trial Court, considered the case of the parties, held that since the petitioner has not produced or relied upon any other document containing the admitted signature, the petition cannot be ordered. Aggrieved by the same, the present Civil Revision Petition is filed.

5.The learned counsel appearing for the petitioner would submit that the trial Court, having found that the petitioner/plaintiff did not point out any other document, ought to have directed the petitioner/plaintiff to point out such document or produce such document and the petition itself ought not to have dismissed on that basis. He would further submit that to the legal



C.RP(MD)Nos.1574 of 2023

WEB COPY

notice issued by the plaintiff, the defendant had issued reply notices through his counsel and the said reply notices are marked as Ex.A3 and Ex.A7. The defendant had issued 2 reply notices, which are marked as Ex.A3 and Ex.A7, in which, the defendant has also countersigned along with the counsel. Therefore, when they admitted the signature is there before the trial Court, the signatures can be compared and it can be sent for opinion.

6.The learned counsel appearing on behalf of the respondent would submit that the petition is filed after the commencement of trial. He would further submit that in any event, the signature in Ex.A.3 alone can be compared.

7.I have considered the submissions made on either side and perished the material records of the case.

8.When in the cross examination the defendant has taken a specific stand that the signature found in Ex.A1-pronote is not



C.RP(MD)Nos.1574 of 2023

WEB COPY

belonging to him and that the plaintiff himself has forged his signature and when the other admitted signature is on record in Ex.A3, no prejudice would be caused to the parties by comparing the said signature by appropriate forensic experts and the same would throw light on the truth or otherwise of the contentions of the parties, which is very essential to decide the suit for claim of money based on Ex.A1-pronote.

9.In view thereof, the Civil Revision Petition stands allowed on the following terms:

(i)the order dated 07.03.2023 made in I.A.No.4 of 2022 in O.S.No.69 of 2020 shall stand set aside and consequently, I.A.No.4 of 2022 in O.S.No.69 of 2020 stands allowed with a direction that the trial Court shall appoint an Advocate Commissioner and entrust Ex.A1 and Ex.A3 to the said Advocate Commissioner with further direction to compare the signatures of the defendant in both the documents and to file an expert report before the Court.

(ii)The trial Court will be entitled to issue such further



C.RP(MD)Nos.1574 of 2023

WEB COPY

directions regarding the remuneration and the procedure adopted by the Commissioner etc.

(iii)Considering the fact that even in the deposition the defendant has challenged the matter to be referred to the forensic expert, the Advocate Commissioner and the concerned Forensic Laboratory shall take up the issue as expeditiously as possible, considering the fact that the suit itself is of the year 2020.

(iv)No costs. Consequently, connected miscellaneous petition is also closed.

26.07.2024

NCC:Yes/No
Ns

To
The Subordinate Court,
Sattur.



WEB COPY



C.RP(MD)Nos.1574 of 2023

D.BHARATHA CHAKRAVARTHY, J.

Ns

**C.R.P(MD)No.1574 of 2023
and
C.M.P(MD)No.7700 of 2023**

26.07.2024