



C.R.P.(MD) No.1600 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.1600 of 2022

and

C.M.P.(MD) No.6910 of 2022

Geetha

W/o.Malairaj

... Petitioner

Vs.

Annakkodi

W/o.Raja

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order passed in I.A.No. 1 of 2021 in O.S.No.545 of 2019 dated 07.04.2022 on the file of the Subordinate Court, Sivagangai.

For Petitioner : Mr.S.Sivasamy

For Respondent : Mr.N.S.Karthikeyan

ORDER

The present Civil Revision Petition has been filed against the order dated 07.04.2022 passed by the Subordinate Court, Sivagangai, in I.A.No. 1 of 2021 in O.S.No.545 of 2019.



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2. The revision petitioner is the defendant in the above suit. The respondent, as plaintiff, filed the above suit in O.S.No.545 of 2019 for recovery of money based on the promissory note (Ex.A1). After the completion of the defendant's side evidence, the revision petitioner/defendant filed an application in I.A.No.1 of 2021 for sending the suit promissory note for expert opinion. The trial court, however, dismissed the said application, stating that it had been filed belatedly. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. The learned counsel for the revision petitioner/defendant would submit that even in the reply notice and in the written statement, the execution of the said promissory note is denied; that since the signature found on the promissory note does not belong to the revision petitioner/defendant, the signature on the said promissory note has to be examined by an expert, and the promissory note has to be sent for expert opinion; and therefore, he was constrained to file an application under Section 45 of the Indian Evidence Act, 1872, read with Section 151 of the CPC; that the trial court, without considering the necessity of the said application, erroneously dismissed it on the ground of delay; that the



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opinion of the expert is very much necessary to support his defence in the above suit, and hence, he would pray for setting aside the order passed by the trial court.

4. On the other hand, the learned counsel for the respondent/plaintiff would submit that the trial court has correctly dismissed the said application, stating that it was filed belatedly, and that the application was filed by the revision petitioner/defendant after the completion of the defendant's side evidence, only with the intention of defeating the value of the respondent/plaintiff's case, and therefore, he would pray for the dismissal of this Civil Revision Petition.

5. Heard on both sides. Records perused.

6. It is seen that though the revision petitioner/defendant, in his reply notice and written statement, has denied the execution of the suit promissory note and stated that the signature on the said promissory note does not belong to him, he, until the completion of the defendant's side evidence, did not take any steps to send the said promissory note for expert opinion. Hence, the trial court has rightly dismissed the



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application, stating that it was filed belatedly. Therefore, no perversity or infirmity is found in the impugned order, which calls for no interference and is hereby confirmed.

7. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

19.11.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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Copy To:

The Subordinate Judge,
Sivagangai,
Sivagangai District.



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K.GOVINDARAJAN THILAKAVADI, J.

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