



C.R.P.(MD)No.8 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.8 of 2021

and

C.M.P.(MD)No.69 of 2021

Palanichamy

... Petitioner / Respondent / Defendant

Vs.

Yuvaraj

... Respondent / Petitioner / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decreetal order dated 31.08.2020 passed in I.A.No.328 of 2019 in O.S.No.33 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Peraiyur, Madurai by allowing this revision petition.

For Petitioner : Mr.P.Krishnasamy

For Respondent : Mr.M.Gnanagurunathan



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ORDER

The defendant in O.S.No.33 of 2017 on the file of the District Munsif Court, Peraiyur, Madurai District is the revision petitioner herein.

2. The said suit was instituted by the respondent herein for recovery of a sum of Rs.85,867/- from the revision petitioner herein. The suit was laid on the strength of the pronote said to have been executed by the revision petitioner. The revision petitioner filed I.A.No.328 of 2019 for referring the said pronote for expert opinion and submitting the report by comparing the same with the signature of the defendant found in the written statement / proof affidavit and in the deposition copies. The plaintiff filed counter opposing the prayer. After hearing both sides, vide order dated 31.08.2020, the trial court dismissed I.A. Questioning the same, the Civil Revision Petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to set aside the impugned order and grant relief as prayed for.



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4. Per contra, the learned counsel appearing for the respondent submitted that the impugned order is a well reasoned and that it does not warrant interference. He relied on the order dated 16.03.2022 passed by the High Court of Andhra Pradesh in C.R.P.No.67 of 2022(Byalla Devadas Vs. Sivapuram Rama Yogeswara Rao). He called upon this Court to dismiss the civil revision petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The suit has been laid on the strength of the pronote. The defendant disputed the signature attributed to him. The burden is very much on the plaintiff to prove the same. While so, it is the defendant who has come forward with I.A.No.328 of 2019 for referring the suit pronote for obtaining expert opinion. In normal circumstances, when signature is disputed, the courts would make reference as sought for. In this case, the court below has negated the request for two reasons. The first reason is that the application has been filed at the stage when the matter has been posted for argument. It is seen that the plaintiff had already completed his argument and the matter was posted on



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07.10.2019 for defendant side argument. IA was filed on 18.10.2019. The court below has taken the view that IA has been filed to prolong the suit proceedings. The second reason given by the court below is that the defendant in his testimony had admitted that he would put his signature both in English as well as in Tamil. More than anything else, it is well settled that comparison has to be made only with the contemporaneous documents. The suit pronote is said to have been executed in the year 2014. The suit was laid in the year 2017. A learned Judge of this Court in the decision reported in **(1999) 3 MLJ 710 (Somasundaram Vs. Palani)** had held that comparison of the disputed documents cannot be made with the signatures found in vakalat / pleadings or in the deposition. The said decision is squarely applicable to the case on hand. The case law relied on by the learned counsel for the plaintiff is also equally relevant.

7. Looked at from any angle, the impugned order cannot be faulted. Interference is not warranted. The Civil Revision Petition is dismissed. No costs.

23.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The District Munsif cum Judicial Magistrate, Peraiyur, Madurai.



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G.R.SWAMINATHAN, J.

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