



C.R.P(MD)No.1491 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1491 of 2019

and

C.M.P(MD)No.7882 of 2019

M.Vanitha

... Petitioner/Petitioner
Defendant

Vs.

S.T.Samuel Jebaraj

... Respondent/Respondent
Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 22.01.2019 passed in I.A.No.107 of 2018 in O.S.No.243 of 2016 on the file of the Subordinate Judge at Thoothukudi.

For Petitioner : Mr.M.P.Senthil

For Respondent : No appearance



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ORDER

The present revision petition has been filed by the defendant in O.S.No.243 of 2016 on the file of the Subordinate Court, Thoothukudi, wherein her application for sending the suit pro-note for comparing her signature to an expert has been rejected.

2. The respondent herein as plaintiff has filed a suit for recovery of money based upon a pro-note, dated 10.11.2015. The revision petitioner herein had filed a written statement specifically contending that, she had not executed the suit pro-note and the signature found in the suit pro-note is a forged one. Pending suit, the defendant had filed I.A.No.107 of 2018 to send the suit pro-note for comparing her signature with that of the admitted signature. However, the said application was dismissed by the Trial Court on the ground that, the defendant has not produced any document containing her admitted signature. Challenging the same, the present revision petition has been filed.



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3. It is a settled position of law that when the signature of the defendant in the suit pro-note is disputed specifically, the entire burden is upon the plaintiff to establish the fact that, the signature of the defendant in the suit pro-note is that of the defendant. When the burden is upon the plaintiff, the defendant need not take upon herself the burden to compare the signature found in the suit pro-note with the admitted signature. Therefore, the Trial Court had rightly dismissed the said application.

4. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

15.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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1. The Subordinate Judge,
Thoothukudi.
2. The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Order made in
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