



C.R.P(MD)Nos.94, 95 and 96 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 01.07.2024

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**C.R.P(MD)Nos.94, 95 and 96 of 2023
and
C.M.P(MD)No.458 of 2023**

P.Vignesh Viswanathan

... Revision Petitioner / Petitioner / Plaintiff
(in all CRPs)

Vs.

S.Anantharaman

... Respondent / Respondent / Defendant
(in all CRPs)

COMMON PRAYER :-

This Civil Miscellaneous Appeal is filed under Article 227 of Constitution of India to set aside the fair and decreetal order made in I.A.Nos. 2, 3 and 4 of 2022 in O.S.No.155 of 2020 dated 26.09.2022 on the file of the Principal District Court, Tirunelveli.

For Petitioner : Mr.S.Selvakrishnan

For Respondent : Mr.G.Anto Prince
(in all CRPs)



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ORDER

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These Civil Revision Petitions are filed as against the order dated 26.09.2022 passed by the Principal District Court, Tirunelveli, in I.A.Nos.2,3 and 4 of 2022 in O.S.No.155 of 2020 in and by which three applications filed by the petitioner / plaintiff are dismissed by the District Court. The prayer in these applications is to reopen the evidence and to direct the bank to produce the admitted documents for comparison and the third prayer is to send the Ex.A1- Promissory note and Ex.A5-Cheque to expert for comparison with the admitted signature of the defendant and for rendering expert opinion.

2. On a perusal of the plaint it can be seen that the suit is filed for recovery of money, based on a pro-note. The defendant has filed a written statement denying the signature in the promissory note. In that situation, when the plaintiff has marked the promissory note as well as the cheque given, it is the defendant's case that it is not his signature. If at all steps to be taken for the comparison of the signature, it is the defendant who has to produce his admitted signature and seek for comparison. The burden is on the defendant and not on the plaintiff. Therefore, the plaintiff, at the first instance ought not to have taken out the application at all at the stage of arguments.



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3. Though I am not in agreement with the reasonings of the District Court, even today when this Court posed a question to the learned counsel appearing on behalf of the respondent / defendant, still they are opposing the prayer to send the document for the comparison of signature by the experts. In that view of the matter, in view of the observations above, though this Court is unable to agree with the reasonings of the trial Court, the ultimate conclusion to dismiss the petition cannot be found fault with. When the plaintiff has marked the document and the cheque, when he is armed with presumption, when a defendant is putting up a specific case that he is denying his signature, it is for the defendant to file such application to compare his signature. When the defendant has not done so and especially when the plaintiff's attempt is also resisted by the defendant, the plaintiff need not further insist that the document need to be sent for forensic expert for comparison.

4. Useful reference can be made to the judgment of Hon'ble Supreme Court reported in **(2008) 7 Supreme Court Cases 655** in the case of **Mallavarapu Kasivisweswara Rao Vs Thadikonda Ramuli Firm and Others.**



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5. For the reasons mentioned in the above paragraphs, the ultimate decision of the Principal District Court, Tirunelveli, to dismiss the I.A.Nos.2 to 4 is upheld and these Civil Revision Petitions are disposed of accordingly. Consequently, connected miscellaneous petition stands closed. No costs.

01.07.2024

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

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To

- 1.The Principal District Court, Tirunelveli.
- 2.The Section Officer, Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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