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C.R.P.(MD)No.3302 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 26/03/2024

Date of Pronounced : 11/06/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.3302 of 2023

and

CMP (MD) No.17015 of 2023

S.Palvannan : Petitioner/Petitioner/
Petitioner/Defendant

Vs.

S.Rajendran : Respondent/Respondent/
Respondent/Plaintiff

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 17/11/2023 made in IA No. 1011 of 2023 in IA No.974 of 2019 in OS No.321 of 2015 on the file of the I Additional Sub Court, Madurai.

For Petitioner : Mr.S.Sankar

For Respondent : Mr.T.R.Subramanian

O R D E R

This civil revision petition is filed seeking an order to set aside the fair and decreetal order, dated 17/11/2023 passed in IA No.1011 of 2023 in IA No.974 of 2019 in OS No.321 of 2015 by the I Additional Sub Court, Madurai.



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2. The facts in brief:-

The suit in OS No.321 of 2015 was filed by the respondent herein on the basis of the pro-note alleged to have been executed by the petitioner herein for a sum of Rs.1,00,000/-.

3.The petitioner disputed the genuineness of the document stating that it suffers from material alteration. The document was referred to the expert by appointing a Commissioner. The Commissioner was appointed and took the original document to the expert. After receiving the report, he filed the expert report along with report. That was taken on file by the trial court.

4.Now the grievance of the petitioner is that in IA No.977 of 2019, he raised two points. By referring one, is that the material alteration in the figure portion Rs.10,000/- was altered to Rs.1,00,000/-. The second point is that whether the hand writing in the body and the signature tallies with that of the writing in the top. But the expert has given only opinion in respect of the first query and not the second query. That was not properly considered by the trial court.



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5.Entire copies of the records were called for from the trial court. A hand written order was passed by the trial court to the effect that the document be sent to the expert for finding out whether there is material alteration with reference to the figure.

6.Now, as mentioned above, the grievance of the petitioner is that with regard to the contents of the writing, a query was raised. But that was not referred. The petitioner ought to have vigilant at the time of passing the main order. The document was sent to the expert, as mentioned above, report was submitted, the trial commenced and posted for cross examination of the plaintiff. The plaintiff stated to be aged about 64. Only at that time, this petition came to be filed. A specific issue has been framed with regard to the material alteration.

7.As mentioned above, the petitioner ought to have been vigilant at the time of passing the order or at least at the time of commencement of the trial. It appears that he did not follow the order as well as the commissioner report properly. Now it is a belated attempt on his part.



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8.Since specific issue is framed with regard to the material alteration, when necessity arises, in the opinion of the court even to get the opinion on the second question, the petitioner may use the opportunity. Now it is too a premature stage to record a finding that whether the second question is relevant for deciding the issue.

9.So, I am of the considered view that the order of the dismissal passed by the trial court requires no interference, of course with the above said liberty.

10.In the result, this civil revision is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

11/06/2024

Index:Yes/No
Internet:Yes/No
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To,

1.The Additional Sub Court,
Madurai.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

er

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