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C.R.P.(PD).No. 204 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 204 of 2025

&

C.M.P.No. 1345 of 2025

K.Sivakumar

...Petitioner

Vs.

R.Ezhilarasi @ R.Jussulla Ezhilarasi

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order in IA.No.1 of 2024 in OS.No.403 of 2010 dated 11.12.2024, on the file of the II Additional Sub Court, Salem.

For Petitioner : Mr. M.Muruganantham



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ORDER

Aggrieved by the dismissal of their application for receiving additional written statement, the 2nd defendant is before this Court. The respondent herein filed a suit O.S.No.403 of 2010 on the file of the II Additional Sub Court, Salem, for recovery of a sum of Rs.5,94,600/- together with future interest of Rs.4,00,000/- at the rate of 18% per annum.

2. It is the case of the plaintiff that one T.K.Kuppusamy borrowed a sum of Rs.4,00,000/- from the plaintiff on 22.07.2003 promising to repay the same together with interest on demand and had executed a promissory note in her favour.

3. The promissor Kuppusamy died on 27.10.2014, leaving behind him surviving the defendants as his legal heirs. After the death of Kuppusamy the plaintiff through her power agent, made several



attempts requesting defendants to repay these amount due under the suit promissory notes. However, the same was not paid.

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4. The plaintiff had issued a legal notice dated 20.03.2006 and the defendants who received the notice, issued a reply disputing liability and execution of the promissory notes. They had also contended that the suit promissory note was created by the plaintiff in collusion with one Asha John Divyanathan. Since the money was not forthcoming, the plaintiff has come forward with the suit in question.

5. The defendants filed a written statement inter alia denying the execution of the promissory note. They would further submit that the deceased was himself a money lender and conducting authorised chits. Therefore, there was no necessity for him to borrow money. The power agent Ravichandran is none else than the co-brother of Asha John Divyanathan who was indebted to Kuppusamy and his related concerns to the tune of several crores. There are more than 60 suits pending against him. The suits filed against Asha John Divyanatha



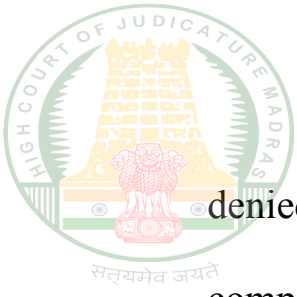
was being conducted by the 2nd defendant.

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6. In fact during his lifetime Kuppusamy initiated proceedings against Asha John Divyanatha under Section 138 of the Negotiable Instruments Act and he had been convicted. The defendants would submit that they have no transaction with the plaintiff and there is no question of them being obligated. They would seek the dismissal of the suit.

7. The matter was posted in the list for Trial in the year 2023. At which point in time, the present application came to be filed. The learned Judge dismissed the same. Aggrieved thus the petitioner is before this court.

8. The records would reveal that this petition has been taken for receiving additional written statement. In the year 2021, the 2nd defendant had filed a similar application and the same was allowed. The learned Judge had also taken note of the different stand taken by the 2nd defendant at each stage. In reply to the legal notice he had



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denied the promissory note. Then he denied the signature when it was compared by the Forensic Department. Thereafter, the petitioner herein filed a written statement in which it was contended that there was material alteration in promissory note. Now the petitioner has come forward with the petition in question.

9. The learned Judge has observed that even at the time of filing of the first additional written statement, the petitioner had knowledge about the debt recovery proceedings. Ultimately, for these reasons, the petition has been dismissed and the reason for rejecting the application has also been set out in great detail in the impugned order. No grounds have been made out for interfering with the impugned order.

10. Therefore, the civil revision petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05.02.2025

Index : Yes/No



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To

The II Additional Sub Court,
Salem.



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P.T. ASHA, J,

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