



C.R.P.No.916 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :09.06.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

CRP No.916 of 2025 and CMP No.5307 of 2025

Junaid

.... Petitioner

VS

Subramanian

... Respondent

Civil Revision Petition filed under Section 227 of Civil Procedure Code against the fair order dated 06.09.2024 in I.A.No.2 of 2024 in O.S.No.27 of 2015 on the file of Sub Court, Udumalpet.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : Mr.N.Thiagarajan

ORDER

The Civil Revision Petition is preferred against the order passed in I.A.No.2 of 2024 in O.S.No.27 of 2015 on the file of Sub Court, Udumallpet.

2. The revision petitioner is the plaintiff. The petitioner/plaintiff filed an application in IA.No.02/2024 for recalling D.W.1 under Order 18 Rule 17 of Civil Procedure Code.

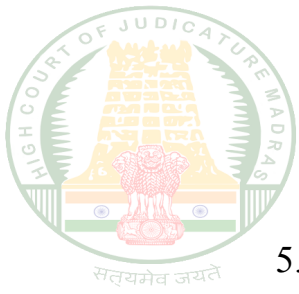


C.R.P.No.916 of 2025

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3. The case of the revision petitioner/plaintiff is that the petitioner took out an application for comparing the signatures of the defendant since the defendant has denied his signature in the subject promissory note.

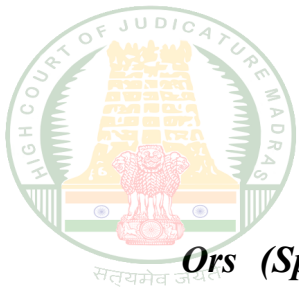
4. The said application was entertained by the Court and handwriting expert was called upon to file a Report. However, the said application in I.A.No.579 of 2020 was closed on the ground that contemporaneous signature was not available. Thereafter, the parties have proceeded with the trial of the suit and D.W.1 has also been examined and cross examined elaborately. The suit is of the year 2015 and despite I.A.No.579 of 2020 having been closed, the petitioner/plaintiff filed an application in I.A.No.2 of 2024 for recalling D.W.1 to put further questions regarding the allegations of the defendant denying his signature in the promissory note. The said application was resisted by the respondent/defendant. The Sub Court, Udumalpet, in and by the impugned order dated 06.09.2024, dismissed the said application finding that the said application was filed at the stage of arguments and the petitioner/plaintiff was given ample opportunities to cross examine D.W.1.



C.R.P.No.916 of 2025

5. Learned counsel for the petitioner/plaintiff states that only in order to establish that the defendant has taken false contentions before the Court, the petitioner/plaintiff filed I.A.No.2 of 2024 to bring out the truth. Learned counsel further submits that even the earlier application in I.A.No.579 of 2020, for sending the disputed signature for comparison was rightly allowed by the trial Court and only on later, on technical ground, the application came to be closed. Therefore, the learned counsel submits that a fair opportunity should be granted to the petitioner/plaintiff by permitting him to recall D.W.1 giving a chance to the petitioner/plaintiff to cross examine D.W.1 to establish the petitioner/plaintiff's case.

6. Per contra, learned counsel for the respondent would submit that the trial Court has not committed any error in dismissing the application filed to recall D.W.1. He would also rely on the elaborate cross examination of D.W.1 by the plaintiff's counsel and in this regard, he has also forwarded a a certified copy of the deposition of D.W.1. He would submit that the suit is of the year 2015 and the same is posted for arguments and at that stage, the petitioner/plaintiff took out an application to recall D.W.1. Learned counsel for the respondent would also place reliance on the decision of the Hon'ble Supreme Court in the case of *Shubhkaran Singh vs Abhayraj Singh and*



C.R.P.No.916 of 2025

Ors (*Special Leave to Appeal (c) Nos.12012-12013/2025*, where, the

Hon'ble Apex Court, by order dated 05.05.2025 has held that under Order 18 Rule 17 of Civil Procedure Code, a witness cannot be recalled at the instance of the parties for the purpose of examining, cross-examining and re-examining and the said Rule is not intended to serve such purpose, but only for the purpose of making available a right to the trial Court to put questions to the witness. The Hon'ble Supreme Court has further held that even when a witness is recalled under Rule 17 to answer questions put by the Court, cross examination also is not ordinarily permissible, except with the leave of the Court. Learned counsel therefore prays for dismissal of the revision.

7. I have carefully considered the submissions made on either side and have gone through the decision of the Hon'ble Supreme Court.

8. The suit is of one for recovery of money based on a promissory Note. The suit is filed in the year 2015. The specific defence raised by the respondent/defendant in the written statement is that the defendant has not executed the said pronote. The petitioner rightly took out an application to compare the disputed signature even in the year 2020. Despite the said

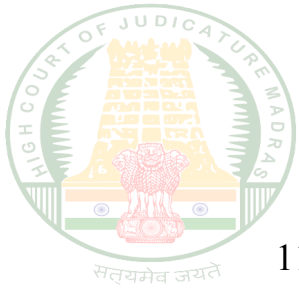


C.R.P.No.916 of 2025

application being allowed, the petitioner did not diligently prosecute the rights or remedies available to him. Instead, trial of the suit was proceeded with and examination of the parties has also been concluded.

9. Admittedly, the suit is in the stage of arguments. At that juncture, the petitioner took out an application, seeking to recall D.W.1, to further cross examine him with regard to his signature. The said application was contested by the respondent/defendant and the trial Court has dismissed the said application and aggrieved by the same, the petitioner/plaintiff is before this Court.

10. The Hon'ble Supreme Court in a very recent decision, ***Shubhkaran Singh's case***, has interpreted Order 18 Rule 17 of Civil Procedure Code and held it would be a right available to the Court to put questions and even cross examination on such questions is not permissible, unless the court concerned permits. The Hon'ble Supreme Court has further held that a witness cannot be recalled at the instance of either of the parties to the suit, for the purposes of either examining in chief or cross examination or re-examination and that the Rule is not intended to serve such purposes.



C.R.P.No.916 of 2025

11. In the light of the above ratio and testing the impugned order, I am of the opinion that there is no error or infirmity in the findings of the trial Court, which has rightly dismissed the application filed to recall D.W.1. Sufficient opportunity was available to the petitioner/plaintiff to elucidate answers to questions regarding the signature of the defendant and the petitioner/plaintiff, has also elaborately cross examined D.W.1. The request for recalling D.W1, therefore, cannot be entertained.

12. In fine, I find no merits in this revision and therefore, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-Speaking Order
sr

To

The Subordinate Court, Udumalpet



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C.R.P.No.916 of 2025

P.B.BALAJI.,J.

Sr

CRP No.916 of 2025

09.06.2025