



C.R.P.No.4377 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.4377 of 2024

Uma

... Petitioner

Vs

Karuna

... Respondent

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, pleaded to set aside the fair and decreetal order in E.P.No.89 of 2016 in O.S.No.195 of 2011 dated 09.02.2019 on the file of the learned District Munsif, Panruti.

For Petitioner : Mr.B.Sundarapandiyan

For Respondent : Mr.M.Muthuraman (No Appearance)

ORDER

This Civil Revision Petition has been filed against the order passed by the learned District Munsif, Panruti, in E.P.No.89 of 2016 in O.S.No.195 of 2011 on 09.02.2019.



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2. The submissions of the learned counsel for the petitioner are as follows :-

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2.1. The petitioner is the plaintiff and the respondent is the defendant in a suit filed by the plaintiff in O.S.No.195 of 2011 on the file of the District Munsif Court, Panruti, seeking for recovery of money with interest against the defendant. The trial Court, after full fledged trial, had decreed the suit on 31.03.2015 directing the respondent to pay Rs.1,04,820/- with further interest.

2.2. Thereafter, the petitioner/plaintiff had filed an execution petition in E.P.No.89 of 2016 for recovery of amount and during such time, the respondent had produced a fabricated settlement receipt as if the respondent had settled the total amount and the same was accepted by the petitioner. The said receipt was marked as Ex.RW1 by the respondent. The petitioner denied having given the said settlement receipt and she also denied the thumb impression in it, however, the executing Court, wrongly relying on the the judgment in *Padma Ben Banushali and another vs. Yogendra Rathore and others* reported in (2006) 3 M.L.J.57 (S.C), which refers to an undisputed document, had terminated the execution petition.

2.3. The proper procedure is that the court ought to have directed the respondent to prove the document in the manner known to the law by referring the



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same for expert opinion, whereas, the trial Court wrongly relied on the judgment concerning the undisputed document and had terminated the execution petition.

Hence, the present revision petition has been filed by the petitioner seeking to set aside the order passed in E.P.No.89 of 2016 in O.S.No.195 of 2011 on 09.02.2019.

3. Heard the learned counsel for the petitioner and perused the materials available on record. Notice was ordered to the respondent and despite service of notice to the respondent and the name of the counsel for the respondent being printed in the cause list, there is no representation for the respondent.

4. It is seen from the records that Ex.R1, the alleged settlement receipt has been disputed by the petitioner and when the petitioner has denied the receipt of money and denied the thumb impression, the burden shifts on the respondent to prove the document in the manner known to law and the document ought to have been referred for expert opinion to find out whether the thumb impression belongs to the petitioner, whereas, it has not been done by the court. Thereby, this Court is of the opinion that the matter has to be remitted back to the execution court to direct the respondent to prove his case in the manner known to law. The order of



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the Executing Court terminating the execution petition is not in accordance with law and the principle of evidence.

5. In view of the above, this Civil Revision Petition stands allowed and the order dated 09.02.2019 in E.P.No.89 of 2016 in O.S.No.195 of 2011 on the file of the District Munsif Court, Panruti, is hereby set aside and the matter is remitted back to the Executing Court. The learned District Munsif, Panruti, shall direct the respondent to prove the document/Ex.RW1 in the manner known to law and shall conduct proper enquiry and dispose of the execution petition, as expeditiously as possible, preferably, within a period of **four months** from the date of receipt of a copy of this order. No costs.

06.02.2025

Note : Registry is directed to return the original papers to the counsel for the petitioner

Index : Yes / No

Neutral Citation : Yes / No

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To : The District Munsif Court, Panruti.



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A.D.JAGADISH CHANDIRA, J.

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