



CRP(MD). No.1070 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 01/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1070 of 2022
and CMP(MD) No.4323 of 2022**

Kovikannan

... Petitioner

Vs

1. Shantha(Died),
Packiam

2. Revathi

3. Ilayanila

4. Ilanthendral

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating with the Executable order and fair order, 11-03-2022, made in I.A.No.1/2020 in A.S.No. 39/2019 on the file of Principal District Court,Theni.

For Petitioner : Mr.R.Suriya Narayanan

For Respondents : Mr.M.A.M.Raja



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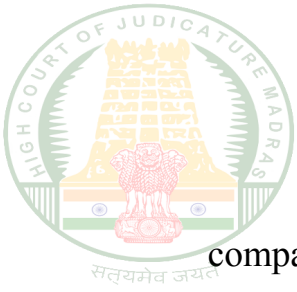
ORDER

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The Civil Revision Petition is filed against the executable and fair order, dated 11-03-2022, made in I.A.No.1/2020 in A.S.No.39/2019 on the file of Principal District Court,Theni.

2. The petitioner is the plaintiff and filed the present revision petition challenging the order in IA No.1 of 2020 in and by which, the petition filed under Section 45 of the Evidence Act to send the documents for expert opinion was allowed.

3. The learned counsel for the petitioner would submit that the petitioner/plaintiff has filed the suit for recovery of money against the respondents/defendants in OS No.170/2014 and the said suit was decreed on 04.07.2018 and challenging the same, the respondents filed an appeal before the lower appellate Court in AS No.39/2019 in which, the respondents filed IA No.1/2020 to send Ex.A1 and Ex.A2 the loan document and consent letter respectively for expert opinion along with the contemporary document and the same was allowed. The learned counsel would submit that when the very same documents were



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compared by the trial Court under Section 73 of the Evidence Act by comparing the signatures, praying for expert opinion before the lower appellate Court is not sustainable and hence, prays for setting aside the said order.

4. The learned counsel for the respondents, on the other hand, would submit that comparison of the signatures under Section 73 of the Evidence Act is different from that of comparison sought for from the expert opinion under Section 45 of the Evidence Act. Under Section 73, the lower Court can direct a person present in court to write something for comparison and this section also applies to finger impressions and when the trial Court has given its finding by comparison, however, under Section 45, the document is compared with the contemporary document by sending the same to expert opinion and hence, both are not same and the lower appellate Court has rightly allowed the petition and hence, no interference is warranted and prays for dismissal.

5. I have considered the rival submissions and perused the materials available on record.



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6. In the case on hand, what is sought to be compared is the loan document and consent letter Ex.A1 and Ex.A2 respectively and since there is a doubt arose with regard to the signatures found in the documents, the respondents filed the said petition for expert opinion. The opinion of the handwriting expert can be relied upon when supported at the time of internal and external evidence and the handwriting expert opinion is simply a circumstantial evidence, which is only binding the parties. By comparing the signatures by the expert, no prejudice would be caused to the petitioner. Apart from that the comparison of signature under Section 73 of the Evidence Act and sending the document for expert opinion under Section 45 of the Evidence Act are different. Hence, the Civil Revision Petition is dismissed. However, liberty is granted to the petitioner to raise whatever plea available to the petitioner before the lower appellate Court. No costs. Consequently connected Miscellaneous Petition is closed.

01.07.2025

NCC : Yes/No
Index : Yes/No
RR



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TO

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1. The Principal District Court, Theni.

2. VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1070 of 2022**

Date : 01/07/2025