



CRP(MD). No.2889 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **15/10/2025**

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD). No.2889 of 2025

and

CMP(MD).No.16588 of 2025

M.Selvaraj

... Petitioner

Vs

A.Paramasivam

... Respondent

PRAYER :-

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.09.2025 passed in I.A.No.06 of 2025 in O.S.No.53 of 2017 on the file of the Additional Sub Court, Srivilliputhur and to allow this Civil Revision Petition.

For Petitioner : M/s.M.Ashok Kumar

For Respondent : No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 02.09.2025 passed in I.A.No.06 of 2025 in O.S.No. 53 of 2017 on the file of the Additional Sub Court, Srivilliputhur.



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2. The learned Counsel for the petitioner would submit that the suit has been filed against the respondent for recovery of money. The claim of the respondent in the said suit is that he had not executed any promissory note and he disputed with the signature found in the suit promissory note. Therefore, the petitioner had taken out an application in I.A.No.06 of 2025 to send the suit promissory note for expert opinion by appointing an Advocate Commissioner. He further submits that the trial Court without considering the claim made by the petitioner had dismissed the said Interlocutory application holding that the said interlocutory application had been filed belatedly and the petitioner had not taken any steps during the trial of the suit and when the suit is at the stage of argument, the present application has been filed.

3. The learned Counsel for the petitioner relied upon the judgement of the Hon'ble Kerala High Court reported in AIR 1989 Kerala 78 and submitted that an application for appointment of an Advocate commissioner can be filed at any stage, that is even before the filing of written statement. Therefore, the reasonings attributed that the application had been filed at the stage of argument will have to be set



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aside. Further, he relying upon the provisions of Order XXVI Rule 9 of Civil Procedure Code and submits that at any stage, the Court could also appoint an Advocate Commissioner to ascertain the facts to resolve the dispute in an amicable manner. Therefore, there is no time line to file an application for appointment of an Advocate Commissioner and the same can be filed at any stage.

4. The suit filed by the petitioner for recovery of money, the respondent herein had filed his written statement as early as on 30.06.2017, disputing the execution of the suit promissory note. Thereafter, issues have been framed and admittedly trial has also been completed by recording evidence of the respective parties and now the suit is at the stage of Arguments. A Perusal of the affidavit filed in support of the Interlocutory Application seeking for appointment of an Advocate Commissioner, it is found that the respondent had denied the suit promissory note and therefore the present interlocutory application had been taken out. Such an averment would clearly indicate that the petitioner was not diligent in prosecuting his case that too when the respondent herein had filed his written statement as early as in the year



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2017, denying the signature in the suit promissory note. It is true that an application under Order XXVI Rule 9 of CPC can be filed at any stage of the proceedings but considering the facts of this case, filing of an application in a belated stage does not warrant any interference. In view of the same, this Court do not find any infirmity in the order passed by the trial Court.

5. In view of the aforesaid reasons, this Civil Revision Petition is liable to be set aside. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:-

1. The Judge,
Additional Sub Court,
Srivilliputhur

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



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K.KUMARESH BABU, J.

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ORDER
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