

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),  
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,  
Additional District Judge(FTC), Vellore.

Dated this the 02<sup>nd</sup> day of September 2023, Saturday

I.A.NO.4/2023 in  
O.S.NO.100/2020

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M.Venkatesan

.. Petitioner/Plaintiff

//Vs//

V.Sooriyakumar

..Respondent/Defendant

This petition is coming before me on 01.09.2023 for final hearing in the presence of Thiru.R.J.Mohan, Counsel for the petitioner and of Thiru.S.Gunasekaran and Thiru.G.Vijaya Baskar, Counsels for the respondent and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

**ORDER**

Petition filed by the petitioner Under Order 7, Rule 14(3) and Sec.151 of C.P.C. prays to receive the petition mentioned document and mark the same as Exhibit through P.W.4.

**2.The averments of the affidavit as follows:-**

The petitioner herein is the Plaintiff in the main suit. He filed the above suit for recovery of money from the respondent. The petitioner is P.W.1 in the above case and he already marked 12 exhibits on his side

through himself and P.Ws.2 and 3. The above case adjourned for the examination of further P.Ws. To prove the transaction between the Plaintiff and the defendant, on 08.01.2020, the defendant executed an undertaking in front of the village panchayath for receiving the suit pronote amounts to the tune of Rs.8,50,000/- and under took to repay the same within 31.01.2020. The said document was written by P.W.4 namely L.R.K.Loganathan, Son of R.Kesavan. The above document is necessary to prove the transaction with the respondent and the same has to be marked as petitioner's side further exhibits. Hence the petitioner filed this petition and prays to allow the petition.

**3. Brief averments of the counter filed by the respondent is as follows:-**

The petition is not maintainable either in law or on facts. All the affidavit averments are denied except those that are admitted by the respondent herein. The petitioner has neither pleaded about the alleged panchayat nor about the alleged document dated 08.01.2020 in the Plaint and when there is no pleadings with regard to the alleged document, the same cannot be received and on this aspect this petition is liable to be dismissed. Even in the proof affidavit of the plaintiff who was examined as P.W.1, he has not stated anything about the alleged panchayat or about the alleged document. The above document clearly proves the case of the respondent that the petitioner has misused the blank signed papers of this

respondent with the help of his friends who have signed as witnesses and scribe in the alleged suit A to E pronotes and the alleged document dated 08.01.2020 and in order to fill up the lacuna of the petitioner's case the petitioner has prepared the alleged document. A mere reading of the said document has got "No heading as described by the petitioner in his affidavit" and when the alleged document is an undertaking, there is no need or necessity to sign the same over a revenue stamp that too for two times as like a pronote. Since there was no such panchayat had taken place the petitioner has not pleaded about the same in the plaint and the petitioner has prepared the same an afterthought and the same clearly shows that it is a prepared document to suit the convenience of the petitioner and the petitioner has not stated any reason in the affidavit for the delay in filing the same and on this aspect this petition is liable to be dismissed.

The petitioner had already filed I.A.No.1/2022 to receive documents pertaining to his income tax returns and the same was allowed by this court. If the alleged document is true and if it was executed by the defendant, the plaintiff would have pleaded in the plaint and would have filed along with the plaint or with the above I.A.No.1/2022. In order to fill up the lacuna the petitioner has prepared the same and has filed the above petition with false averments and on this aspect this petition is liable to be dismissed.

4. The point for consideration in this petition is;

Whether the petition is to be allowed or not?

**5. Point:**

The petitioner has stated that to prove the transaction between the Plaintiff and the defendant, on 08.01.2020, the defendant executed an undertaking in front of the village panchayath for receiving the suit pronote amounts to the tune of Rs.8,50,000/- and under took to repay the same within 31.01.2020. The said document was written by P.W.4 namely L.R.K.Loganathan, Son of R.Kesavan. The above document is necessary to prove the transaction with the respondent and the same has to be marked as petitioner's side further exhibits. Hence the petitioner filed this petition.

But the respondent denied the allegations and stated that the petitioner has neither pleaded about the alleged panchayat nor about the alleged document dated 08.01.2020 in the Plaint and when there is no pleadings with regard to the alleged document, the same cannot be received and on this aspect this petition is liable to be dismissed. Even in the proof affidavit of the plaintiff who was examined as P.W.1, he has not stated anything about the alleged panchayat or about the alleged document. The above document clearly proves the case of the respondent that the petitioner has misused the blank signed papers of this respondent with the help of his friends who have signed as witnesses and scribe in the alleged suit A to E pronotes and the alleged document dated 08.01.2020 and in

order to fill up the lacuna of the petitioner's case the petitioner has prepared the alleged document. A mere reading of the said document has got "No heading as described by the petitioner in his affidavit" and when the alleged document is an undertaking, there is no need or necessity to sign the same over a revenue stamp that too for two times as like a pronote. Since there was no such panchayat had taken place the petitioner has not pleaded about the same in the plaint and the petitioner has prepared the same an afterthought and the same clearly shows that it is a prepared document to suit the convenience of the petitioner and the petitioner has not stated any reason in the affidavit for the delay in filing the same and on this aspect this petition is liable to be dismissed.

Even though the respondent stated that there is no pleading with regard to the document now sought to be filed and the P.W.1 in his evidence also not stated about the document now filed along with this petition, but in the reply notice dated 04.05.2020 sent by the petitioner's counsel, in para No.9, the petitioner herein has mentioned about the execution of the said document by the respondent herein and the said reply notice is marked as Ex.A.7 through P.W.1. Further even though the respondent made objections with regard to the execution of the documents and marking of the said documents in the above suit but not made any serious objections for receiving the said document. The point to be considered in this petition is whether the document can be received after

condoning the delay in filing the said document. Since the respondent has not made any serious objections for receiving the document and the only allegation made by the respondent is that there is no pleading with regard to the document and without pleading the said document cannot be marked. But the details of the documents were mentioned in the reply notice sent by the petitioner herein and the reply notice has been already marked hence the objections of the respondents with regard to the pleadings cannot be sustained. The proof and relevancy of the document can be decided at the time of marking the document. The petitioner herein filed the original document and the admissibility of the said document can be decided only at the time of marking the same. Hence from the above discussions, this court decides that the document filed along with the petition can be received subject to proof and relevancy.

In the result this petition is allowed. No costs.

Dictated to steno typist directly, typed by her, corrected and pronounced by me in open court, this the 2<sup>nd</sup> day of September 2023.

**Additional District Judge(FTC)  
Vellore.**

**Bothside witnesses and Exhibits:**

NIL

**ADJ (FTC),  
Vellore.**

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),  
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,  
Additional District Judge(FTC), Vellore.

Dated this the 02<sup>nd</sup> day of September 2023, Saturday

I.A.NO.4/2023 in  
O.S.NO.100/2020

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M.Venkatesan, aged 59 years, S/o.Late.Kari Muniayya Naidu, residing at  
Senji Village and Post, Via Latheri K.V.Kuppam Taluk – 632 202.

.. Petitioner/Plaintiff

//Vs//

V.Sooriyakumar, aged 38 years, S/o.Venkatesan, residing at Aayakulam  
Village, Senji Post, K.V.Kuppam Taluk, Vellore District.

..Respondent/Defendant

Petition filed by the petitioner Under Order 7, Rule 14(3) and  
Sec.151 of C.P.C. prays to receive the petition mentioned document and  
mark the same as Exhibit through P.W.4.

This petition is coming before me on 01.09.2023 for final hearing in  
the presence of Thiru.R.J.Mohan, Counsel for the petitioner and of  
Thiru.S.Gunasekaran and Thiru.G.Vijaya Baskar, Counsels for the  
respondent and upon hearing the arguments of both sides and upon  
perusing the entire case records and having stood over for  
consideration, till this date this court doth order and decreetal order as  
follows:

**DECREETAL ORDER**

1. That the petition be and the same is hereby allowed;
2. That there is no cost.

Given under my hand and the seal of this court, on this the 02<sup>nd</sup>  
day of September 2023.

**Additional District Judge(FTC),  
Vellore.**

