



C.R.P.(MD)No.1748 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.1748 of 2023

and

C.M.P.(MD)No.8700 of 2023

Muthulakshmi

... Petitioner/
Petitioner/
Defendant

Vs.

Alagar

... Respondent/
Respondent/
Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree dated 27.04.2023 made in I.A.No.730 of 2022 in O.S.No.93 of 2018 on the file of the Principal Sub Court, Kumbakonam and allow this Civil Revision Petition.

For Petitioner : Mr.G.Gomathi Sankar

For Respondent : Mr.A.N.Ramanathan



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ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.730 of 2022 in O.S.No.93 of 2018 dated 27.04.2023 on the file of the Principal Subordinate Court, Kumbakonam, dismissing the application filed under Order 16 Rule 1 C.P.C., seeking permission to issue summons to examine three witnesses.

2. The respondent/plaintiff has filed the above suit for recovery of Rs.2,50,000/- due by the revision petitioner/defendant on the basis of the cheque dated 16.02.2018. The revision petitioner/defendant has filed a written statement alleging that the revision petitioner/defendant is not having any bank account in ICICI Bank, Thanjavur Branch, that one Andal has already filed a complaint under Section 138 of Negotiable Instruments Act with the help of a ICICI Bank cheque alleged to have given by the revision petitioner/defendant and the case is pending in S.T.C.No.1724 of 2015 on the file of the Judicial Magistrate No.2, Kumbakonam, that one Peter Joseph has also sent a legal notice demanding Rs.2,00,000/- allegedly due by the revision petitioner/defendant on the basis by the



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ICICI cheque issued, that the revision petitioner/defendant has not borrowed any amount from the respondent/plaintiff and that in order to prove the defence, the revision petitioner/defendant has filed the above application to examine the Branch Managers of Karur Vysya Bank, State Bank of India and City Union Bank.

3. As rightly pointed out by the learned counsel appearing for the respondent/plaintiff, the revision petitioner/defendant has already summoned and examined the Branch Manager of ICICI Bank as D.W.1 and the revision petitioner/defendant through the above application is attempting to examine three other Branch Managers, in which, the revision petitioner/defendant is having bank account.

4. The learned counsel appearing for the respondent/plaintiff would submit that the respondent/plaintiff has not disputed that the revision petitioner/defendant is having bank accounts in those Banks.

5. The learned counsel appearing for the revision petitioner/defendant would submit that the above application was filed to summon the documents produced at the time of opening the bank account, which



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contains the admitted signature of the revision petitioner/defendant and is required for comparison. But admittedly, the revision petitioner/defendant has not filed any application before the trial Court for sending the disputed cheque to the expert for comparing the signatures found therein with the admitted signature of the revision petitioner/defendant.

6. As rightly observed by the learned trial Judge, the above application has been filed only to drag on the proceedings. Considering the entire facts and circumstances, the impugned order dismissing the application cannot be found fault with. Hence, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

7. In the result, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

23.11.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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WEB COPY **To**

1. The Principal Subordinate Court,
Kumbakonam.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.1748 of 2023
and
C.M.P.(MD)No.8700 of 2023

Dated : 23.11.2023