

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) No.525 of 2015

and

M.P.No.1 of 2015

A.Chandrasekaran	...	Petitioner
	Vs.	
T.Venugopal	...	Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 08.10.2014 passed by the learned XVII Additional Judge, City Civil Court at Chennai in I.A.No.75 of 2014 in O.S.No.11949 of 2010, in dismissing the interlocutory application preferred by the petitioner/plaintiff under Order XI Rule 16 r/w Section 94 (c) and 181 CPC.

For Petitioner	:	Mr.P.Karl Marx
For Respondent	:	Mr.K.Thyagarajan

ORDER

This civil revision petition arises out of the order dated 08.10.2014 passed by the learned XVII Additional Judge, City Civil Court at Chennai in I.A.No.75 of 2014 in O.S.No.11949 of 2010.

2. The plaintiff in O.S.No.11949 of 2010 is the petitioner in this civil revision petition. The petitioner had instituted a suit against the respondent for

specific performance of the alleged agreement dated 02.02.1999. The respondent filed his written statement in the month of March, 2011 and also an additional written statement in the month of March, 2011.

3. The petitioner filed I.A.No.75 of 2014 for issuance of a direction, directing the Branch Manager, State Bank of India, Srivaikundam Branch, Tuticorin District, to produce the statement of accounts, pertaining to the month of October, 1997, in respect of his brother-in-law, S. Malaiyappan's savings bank account and also with reference to the demand draft on 13.10.1997.

4. The case of the petitioner is that part of the advance amount was paid from the account of his brother-in-law in the year 1997.

5. The application was resisted by the respondent stating that the petitioner/plaintiff has not paid the monthly rent from the month of November, 2004, and eviction petition in R.C.O.P.No.193 of 2006 was filed on the ground of willful default and the petitioner has been adopting all delaying tactics to drag on the eviction petition and the suit.

6. The respondent has further stated that the chief examination of the

tenant was over on 11.10.2011 and thereafter, the plaintiff filed application to reopen the case for cross examination of D.W.1. But, he has not chosen to cross-examine the witness, however, filed the application subsequently to drag on the suit. The trial Court dismissed the application. Aggrieved by the order, the present civil revision petition is filed.

7. Mr.P.Karl Marx, learned counsel for the petitioner submitted that the petitioner has filed the suit for specific performance and he should be given ample opportunity to establish his case. The learned counsel further submitted that the petitioner will not be in any way benefited by adopting various tactics and therefore, the reason given by the trial Court cannot be sustained. The learned counsel relied upon the judgment reported in **2002 - 1 - L.W.330 and AIR 2009 SC (Supp) 1381**.

8. In **2002 - 1 - L.W - 330**, in that case, the plaintiff filed the suit for recovery of money. The plaintiff filed a petition to reopen the suit and to produce the opinion of an expert. In the above facts, this Court held that there would be no gain or advantage to plaintiff by delaying the trial in a money suit.

9. The decision in **AIR 2009 SC (Supp) 1381**, relied on by the petitioner

relates to an application made in terms of Order 9 Rule 1 C.P.C for sending receipts to Government Expert for comparison of signatures with that of the admitted signatures of witness and the same was dismissed on the ground that it was filed to protract the proceedings. The Hon'ble Supreme Court set aside the said order of the High Court and directed the trial Court to pass necessary orders in terms of the prayer made by the appellant therein. I am of the opinion that the judgments relied on the counsel for the petitioner do not have any bearing on the facts of this case.

10. It is seen from the records that the petitioner had instituted the suit in the year 2010 and after evidence of the plaintiff and the defendant was over, when the suit was posted for arguments, he filed this application. It is to be noted that the petitioner has also filed an application to reopen the case for the purpose of examination of D.W.1. Though the petition was allowed, the plaintiff/petitioner did not cross-examine D.W.1. The petitioner has not assigned any valid reason for production of the statement of the accounts of his brother- in-law. The trial Court has rightly dismissed the application which does not warrant interference by this Court.

In fine, the civil revision petition is dismissed. No costs. Consequently

connected miscellaneous petition is closed. The trial Court shall dispose of the matter within a period of one month from the date of receipt of copy of this order.

23.02.2015

Index : Yes/No
Internet: Yes/No
sms

To
learned XVII Additional Judge, City Civil Court at Chennai.

K.KALYANASUNDARAM,J.

sms

C.R.P.(PD) No.525 of 2015
and
M.P.No.1 of 2015

23.02.2015