

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2016

CORAM

**THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR**

**C.R.P (PD) No.16 of 2016**

**and**

**C.M.P.No.73 of 2016**

Vivek

... Petitioner

vs.

G.Subramani

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Sub Court, Cheyyar, Tiruvannamalai District to number S.R.No.7596 of 2015 in unnumbered I.A.No. of 2015 in O.S.No.185 of 2014.

For Petitioner : Mr.K.Venkat

**ORDER**

The submissions made by Mr.K.Venkat, learned counsel for the petitioner are heard. The materials placed before this court are also perused.

2. The petitioner is the defendant in the original suit in O.S.No.185/2014 pending on the file of Sub Court, Cheyyar, Thiruvannamalai District. He wanted some of the documents to be summoned from the Sub Court, Arani, to be marked as evidence on his side. As the petition came to be filed with a prayer to summon the documents from another court, the trial court chose to return the petition asking how the petition was maintainable.

Again, without considering whether the prayer sought for was proper, the petitioner seems to have re-presented the same, to be again returned pointing out that the earlier return was not complied with. In case the petitioner was of the view that the petition in the form in which it was filed and with the prayer with which it was filed was maintainable, could have asked for a specific order rejecting the petition as not maintainable and thereafter approached this court with a revision. Instead of doing it, the petitioner has chosen to approach this court with the revision under Article 227 of the Constitution of India.

3. On merits also, this court finds that the prayer made in the petition, which was returned by the trial court is not proper. As per Rule 74 of the Civil Rules of Practice, a Civil Court can send for the documents from another court, for which summons will not be issued and only a letter of request will be issued. The insistence of the petitioner to summon those documents tantamounts to seeking issuance of summons to the civil court to produce the documents. Hence the petition cannot be entertained and even if entertained, cannot be allowed.

4. The documents referred to in the petition of the revision petitioner are:

i) A memo dated 30.07.2003 filed in O.S.No.29/2003 on the file of Sub Court, Arani by G.Subramani, the plaintiff in the suit pending on the file of Sub Court, Cheyyar;

ii) Endorsement made in the court bundle by his counsel on the same date; and

iii) Endorsement made in the court bundle in the said case by Subramani.

It is not stated as to what was the rank of Subramani in the suit in O.S.No.29/2003 on the file of Sub Court, Arani. The endorsements made are all admitted. Hence there is no need to send for the originals from the other court. The petitioner could have very well applied for certified copies of the same and produced the same. Still, with some ulterior motive, the petitioner seems to have filed a petition. Hence on merits also, the prayer cannot be allowed even if the prayer is treated as a prayer to send for the documents under Rule 74 of the Civil Rules of Practice. There is no merit in the civil revision petition and the same deserves to be dismissed.

Accordingly, the civil revision petition is dismissed. However, there shall be no order as to cost. Consequently, the connected civil miscellaneous petition is also dismissed.

24.02.2016

Index : Yes  
Internet : Yes  
asr

To

The Subordinate Judge, Cheyyar, Thiruvannamalai District

P.R.SHIVAKUMAR, J.

asr/-

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and

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