IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).No.45 of 2014
& M.P.No.1 of 2014

V.S.Kondappan .. Petitioner

Vs.

K.Ramasamy .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 29.10.2013 made in I.A.No.10 of 2011 in I.P.No.6 of 2006 on the file of the Subordinate Court, Sankari.

For Petitioner : Mr.N.Manokaran
For Respondent : Mr.R.Tholgappian

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 29.10.2013 made in I.A.No.10 of 2011 in I.P.No.6 of 2006 on the file of the Subordinate Court, Sankari.

2.The petitioner is first respondent and respondent is the petitioner in I.P.No.6 of 2006 on the file of the Subordinate Court, Sankari. The respondent filed the said I.P for adjudicating the petitioner as an insolvent. The petitioner filed counter affidavit and is contesting the said I.P. The respondent was examined as PW1. After examination, petitioner filed I.A.No.10 of 2011 under Order XI Rule 14 & 16 Read With Section 151 of C.P.C for a direction to the respondent to produce the copies of the statement of accounts for the period ending with 30.03.2007 along with proper certification of Saral of the Income tax department and also to furnish the PAN card number.

3.According to the petitioner, the respondent has admitted in the cross-examination that Firm has been filing Income Tax statements regularly. If really a sum of Rs.4,00,000/- is paid by the respondent to the petitioner on a promissory note dated 10.04.2006, which was marked as Ex.A1, the same would reflect in the Income Tax statement. In view of the same, Income Tax statement and PAN card is necessary to prove the case of the petitioner that he did not borrow the amount of Rs.4,00,000/- from the respondent.

4.The respondent filed counter affidavit and denied all the averments and submitted that he is an individual and he has nothing to do with Firm and he does not even know whether "C.K.R

Finance" is carrying on business. The respondent submitted that he has not stated that Firm has filed statement. On the other hand, he has stated that he is paying the Income Tax and does not remember that whether he has mentioned this transaction in the Income Tax statement. He has also stated that he does not remember the PAN card number.

5.The petitioner filed additional affidavit, stating that by mistake he has mentioned that "the Firm filed statement" instead of "respondent had filed Income Tax statement".

6.The learned Judge, considering the materials on record, averments in the affidavit, counter affidavit, additional affidavit and the judgment relied on by the learned counsel for the respondents, dismissed the application.

7.Against the said order of dismissal dated 29.10.2013 made in I.A.No.10 of 2011 in I.P.No.6 of 2006, the present Civil Revision Petition is filed by the petitioner.

8.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

9.The learned counsel for the petitioner in support of his contentions, relied on the judgment reported in "***AIR 1992 SC 990 (Dagi Ram Pindi Lall and another Vs. Trilok Chand Jain and others)***". The contention of the learned counsel for the petitioner is that he did not borrow any money based on the promissory note dated 10.04.2006. The respondent has admitted that the Firm has filed Income Tax statements and is paying the Income Tax. Based on such averments, the respondent filed the present application for a direction to produce Income Tax statements of the Firm and PAN card. Subsequently, after the respondent filed counter, the petitioner filed additional affidavit stating that by mistake, he has mentioned 'Firm statement' instead of 'Income Tax statement of the respondent'.

10.The learned Judge, considered all the averments of the respondent in the cross-examination, the contention of the respondent that he does not remember whether he has mentioned the transaction in the Income Tax statements and also taking into consideration the evidence of the respondent that respondent received money from his friends and relatives and lend the money to the petitioner, held that the reason given by the petitioner for the relief sought for in the present petition is contrary to the evidence given by the respondent.

11.For the above reasons, the learned Judge dismissed the application by giving cogent and valid reason. In view of the above facts, the judgment relied on by the learned counsel for the petitioner does not advance the case. In the circumstances, there is no reason warranting interference by this Court with the order of the learned trial Judge dated 29.10.2013.

12.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2017

Index: Yes/No
gsa

To

The Subordinate Judge,
Sankari.

V.M.VELUMANI,J.

gsa

C.R.P.(PD).No.45 of 2014
& M.P.No.1 of 2014

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