

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No. 1058 of 2013
and M.P.No.1 of 2012

V.M.Periyasamy

...Petitioner

Vs

V.P.Venkatachalam

...Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the II Additional Subordinate Judge at Erode, dated 28.01.2013 in I.A.No.463 of 2012 in O.S.No.775 of 1999.

For Petitioner : Mr.P.Valliappan
For Respondent : Mr.S.Kaithamalai Kumaran

ORDER

The petitioner filed a Civil Suit in O.S.No.775 of 1999 before the II Additional Subordinate Judge, Erode for recovery of money. The suit was laid on the ground that the respondent availed financial assistance and in discharge of the amount, cheques were given. The cheques were dishonoured and the same resulted in initiating criminal proceedings by the petitioner against the respondent under the provisions of the Negotiable Instruments Act.

2. The suit was taken up for trial by the learned Subordinate Judge. Subsequent to the closure of the evidence of the petitioner and after partly cross examining D.W.1, the petitioner filed an application in I.A.No.463 of 2012 to stay the suit till the disposal of the criminal proceedings in CrI.R.C.No.775 of 2003, pending before this Court. The application was dismissed by the learned trial Judge. The said order is under challenge in this civil revision petition.

3. The learned counsel for the petitioner contended that in view of the pendency of CrI.R.C.No.775 of 2003, it would not be possible for the petitioner to produce the cheques before the trial Court. It was only under such circumstances, the petitioner made a request to stay the suit till the disposal of the criminal proceedings.

4. The learned counsel for the respondent on the other hand submitted that this Court has already directed the trial Court to dispose of the Civil Suit within a period of six months. It was only during the final stage of the examination of the witnesses, the petitioner has filed an application for stay, which was rightly rejected by the learned trial Judge.

5. The suit in O.S.No.775 of 1999 was instituted by the petitioner against the respondent for recovery of money. The petitioner earlier initiated

proceedings against the respondent under the provisions of the Negotiable Instruments Act. The respondent was convicted by the trial Court. The matter was taken up before this Court in CrI.R.C.No.775 of 2003.

6. The petitioner filed the application in I.A.No.463 of 2012 after partly cross examining the respondent. The petitioner appears to have produced certified copy of the cheques in O.S.No.775 of 1999 to prove that the respondent has issued cheques in discharge of the amount due to him. The evidentiary value of the document produced by the petitioner is a matter to be considered by the trial Court. There is no question of keeping a suit filed in the year 1999 indefinitely under the pretext that connected CrI.R.C. No.775 of 2003 is pending before the High Court. The nature of evidence to be let in, in a Civil Suit is different from the evidence to be considered by the criminal Court as to whether the respondent should be punished on account of dishonouring the cheques. In any case, there is no ground made out by the petitioner to stay the suit invoking Section 10 of C.P.C. I am, therefore, of the view that the trial Court was correct in dismissing the application filed by the petitioner.

In the upshot, I dismiss the civil revision petition. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2017

gms

K.K.SASIDHARAN,J.

gms

To

The II Additional Subordinate Judge at Erode

C.R.P.(P.D.) No. 1058 of 2013

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