

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.331 of 2016

and

CMP.No.1748 of 2016

C.Thiyagarajan

.. Petitioner

Vs

S.Rasammal

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 16.12.2015 in I.A.No.451 of 2015 in O.S.No.124 of 2010 on the file of Sub Court, Bhavani.

For Petitioner : Mr.P.Parthi Kannan

For Respondent : Ms.Zeenath Begam

ORDER

This revision arises against the order dated 16.12.2015 passed in

I.A.No.451 of 2015 in O.S.No.124 of 2010 by the Sub Judge, Bhavani.

2. The learned counsel for the petitioner would submit that the suit has been filed by the respondent for recovery of money. The revision petitioner filed an Interlocutory Application in I.A. No. 451 of 2015, under Order 11 Rule 14 & 16 and 151 of CPC, seeking permission to summon Teachers Acquittance Register/1997-1998 and students Free books and Unifroms issue Register/1997-1998, which are in the custody of the Assistant Elementary Education Officer of Ammapettai. The Court below dismissed the said application on the ground that the aforesaid documents relates to the year 1997-1998 and that the same will not correspond to the contemporary period of Ex.B2. According to the petitioner, the said documents have been sought by the petitioner to disprove the case of the plaintiff and that the said documents are vital and necessary to establish that the petitioner has not borrowed money and to deny the execution. Therefore, the present revision petition is filed to set aside the order of the trial court dismissing the said application.

3. The learned counsel for the respondent would submit that

the documents summoned relates to the year 1997-1998 and that the same is sought for comparing Ex.B2, which do not correspond to the contemporary period of Ex.B2. According to the respondent, the suit promissory note is forged and hence there is no need to honour it. It is further submitted that the trial in the suit has been commenced during the year 2011 itself and the same is pending as part heard for the past four years. This petition is filed only to drag on the proceedings in the suit and so the court below has rightly dismissed the application. Hence, there is no warrant to interfere with the order of the court below.

4. This court is of the view that the trial court should afford an opportunity to the defendant/ revision petitioner, to disprove the claim of the plaintiff/ respondent, by directing the Assistant Elementary Education Officer, Ammapettai, to produce those documents before the Court below. In view of the said facts, the order passed by the Court below is liable to be set aside.

4. In the light of the above, the order of the trial Court dated

16.12.2015 in I.A.No.451 of 2015 in O.S.No.124 of 2010 is set aside and the Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

13.11.2017

Index: Yes / No

Speaking order/ Non speaking order

avr

To

The Sub Court,
Bhavani.



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D. KRISHNAKUMARJ,J.

avr



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