IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2017

CORAM:

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3603 of 2010
and M.P.No.1 of 2010

Anand .. Petitioner

Vs.

Vengadesan .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the Principal District Munsif, Pondicherry, passed in I.A.No. 500 of 2007 in O.S.No.1021 of 2005, dated 18.4.2008.

For Petitioner : Mr. B. Baskaran
For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the order dated 18.4.2008 passed by the learned Principal District Munsif, Pondicherry in I.A.No. 500 of 2007 in O.S.No.1021 of 2005.

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2. The petitioner is the plaintiff and respondent is the defendant. The petitioner filed a suit in O.S.No.1021 of 2005 on

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the file of the Principal District Munsif, Pondicherry, for recovery of a sum of Rs.25,000/- with interest at the rate of 18% per annum, based on the promissory note.

2.1. The respondent filed written statement on 31.07.2006, and denied the borrowal of Rs.25,000/-. According to the respondent, he borrowed only Rs.5,000/- from the petitioner's father, against which, the petitioner's father had obtained two signatures on both the sides of the blank promissory note with the date mentioned as 26.6.2000 on the first page of the promissory note. Thereafter, the respondent had also repaid the amount with interest within two months of the date of borrowal, but the promissory was not returned to the respondent. It is also admitted by the respondent that he had borrowed another sum of Rs.15,000/- from the petitioner, and repaid an amount of Rs.7,600/-It is submitted by the respondent that the petitioner had used the alleged promissory note and filled the amount as Rs.20,000/-. Hence, according to him, he has not borrowed Rs.20,000/- on 26.6.2000 and also not executed any promissory note in favour of the petitioner as alleged by the petitioner.

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3. Subsequently, based on the pleadings, issues were framed and trial commenced. The petitioner was examined as P.W.1 and suit was posted for cross-examina tion of P.W.1. At that time, the petitioner filed an application in I.A.No.500 2007 seeking amendment of plaint. It is contended in the application that the principal amount borrowed by the respondent is Rs.25,000/-, but it has been wrongly mentioned as Rs.20,000/- which is a typographical error. The learned Judge, vide order dated 01.4.2008 has dismissed the application holding that the petitioner has come out with the present application in I.A.No.500 of 2007 after commencement of trial and even in the notice (marked as EX-A2) issued to the respondent prior to the filing of suit, the petitioner has mentioned the principal amount borrowed is Rs.20,000/- and not Rs.25,000/-. The learned Judge has taken note that even in the notice, pleadings and the proof affidavit filed by the petitioner, the amount borrowed by the respondent is mentioned as Rs.20,000/-. In the said circumstances, if amendment is ordered, it will change the nature and cause of action in the suit and a new case would be introduced.

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4. Against the said order of dismissal dated 01.04.2008, passed by the learned Principal District Munsif, Puducherry, the present Civil Revision Petition is filed.

5. Heard the learned counsel for the petitioner and perused the materials on record. Though notice was served on the respondent and his name being printed in the cause-list, there is no representation for the respondent either in person or through counsel.

6. From the order of the trial Court dated 01.04.2008, it is clear that the order passed by the learned Principal District Munsif, Puducherry does not suffer any infirmity and the learned Judge has given valid reasons for dismissing the application in I.A.No.500 of 2007.

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7. In the result, the Civil Revision Petition is devoid of merits and hence dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2017

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To
The Principal District Munsif,
Pondicherry.

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V.M.VELUMANI,J.

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