



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.304 of 2017 and
CMP (MD) .No.1501 of 2017

1.P.Jeyaraj

2.Veronika Jeyaraj

.. Petitioners

Vs.

Ronald

..Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the fair and decreetal order dated 09.12.2016 passed in I.A.no.94 of 2016 in O.S.No.25 of 2015 on the file of II Additional District Court, Tuticorin.

For Petitioner :Mr.M. Vallinayagam, Senior Counsel
for MR. D. Nallathambi
For respondent : Mr.S.Kadarkarai

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 09.12.2016 passed in I.A.No.94 of 2016 in O.S.No.25 of 2015 on the file of II Additional District Court, Tuticorin.

2. The revision petitioners, who are the plaintiffs filed suit for recovery of a sum of Rs.30,00,000/- together with interest at 18% per annum from the respondent, defendant.

3. According to the petitioners, the respondent borrowed a sum of Rs.30,00,000/- agreeing to repay the same together with interest at 18% per annum. The respondent did not repay the amount. Therefore, the petitioners filed suit. The respondents filed written statement and is contesting the suit. The petitioner filed I.A.No.94 of 2016 for a direction to the respondent, to lead evidence on his side first and to commence the trial. According to them, the respondent admitted receiving the amount of Rs.30,00,000/-. The respondent denied that said amount was not a loan transaction and he repaid the said amount on 20.12.2014. The respondent has further stated that he repaid the sum of Rs.30,00,000/- by cheque bearing No.383256 drawn on ICICI Bank, Tuticorin Branch and the petitioners presented the cheque for



collection without respondent's knowledge.

4. The respondent filed counter denying the various averments made by the petitioners and submitted that he did not admit in the written statement that he borrowed a sum of Rs.30,00,000/- from the petitioners. On the other hand, his specific case is that said amount was transferred to his account for the purchase of land at Keelavalla Nadu. It is only for the purchase of land. It is for the petitioners to prove the execution of promissory note and lending money.

5. The learned Judge considering the averments made in the affidavit, counter affidavit, plaint and written statement and the Judgments relied on by the counsel for the parties, dismissed the application holding that respondent did not admit having borrowed a sum of Rs.30,00,000/- from the petitioners and contended that there was transaction for purchase of land at Keelavallanadu village.

6. Against the said order of dismissal, the present Civil Revision Petition has been filed.

7. I have heard the learned counsels appearing on either side and perused the materials available on record.

8. The petitioners have filed the suit for recovery of money. According the petitioners, the respondent borrowed a sum of Rs.30,00,000/- agreeing to repay the same together with interest. The respondent admitted the borrowing in the written statement and stated that he has discharged the said loan. Therefore, the petitioners filed an Interlocutory Application in I.A.No.94 of 2016 for a direction to the respondent, to lead evidence on his side first and to commence the trial.

9. From the materials available on record it is seen that the respondent did not admit that he borrowed a sum of Rs.30,00,000/- from the petitioners. On the other hand, he had stated that a sum of Rs.30,00,000/- has been credited to his account for the purchase of land at Keelavalla Nadu Village. The respondent has also stated that it is for the petitioners to prove the execution of promissory note. The learned Judge rightly held that respondent did not admit the borrowing as stated by the petitioners and the Judgments relied on by the counsel for the petitioners is not applicable to the facts of the present case. In the said Judgment, the defendant admitted that the execution of suit agreement of sale. But, contended that he executed the same under coercion.

<https://hcservices.courts.gov.in/hcservices/>
10. The learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Interlocutory Application. Further the learned



Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

11. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The II Additional District Court, Tuticorin.

+1cc to Mr.D.Nallathambi, Advocate, SR.8818

+1cc to Mr.S.Kadarkarai, Advocate, SR.8914

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