



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018
(Reserved on 31.01.2018)

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (PD) (MD) No.7 of 2018

S.K.Naganathan ... Petitioner

vs.

1)M.R.Pushbavalli

2)N.D.Manikandan

... Respondents

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 05.06.2017 of learned Principal District Munsif, Madurai Town in unnumbered O.S.No. / 2017 in S.R.No.17585/dated 04.12.2016.

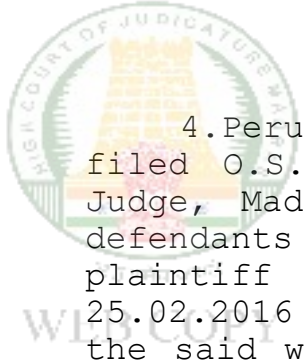
For Petitioner : S.K.Naganathan/Party-in-person

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 05.06.2017 of the learned Principal District Munsif, Madurai Town in unnumbered O.S.No. /2017 in S.R.No.17585/dated 04.12.2016.

2.The revision petitioner/plaintiff filed a suit in the Principal District Munsif Court, Madurai Town, claiming damages of Rs.15,000/- from the respondents/defendants. The revision petitioner conducted a case against the defendants in O.S.No.947/2012 on the file of III Additional Subordinate Judge, Madurai. In the above suit, the defendants have examined one K.S.Ramudu as DW2 with wrong address. The plaintiff has stated that he issued a notice to the above witness K.S.Ramudu on 25.02.2016 to the address mentioned in the proof affidavit filed by K.S.Ramudu. The above advocate notice was returned with the postal endorsement 'insufficient address'. According to the plaintiff, the defendants have mentioned the wrong address of the above said witness K.S.Ramudu and examined him as their side witness and therefore, the petitioner has filed the present suit contending that the defendants are liable to pay Rs.15,000/- to him for giving wrong address of the above witness. The Court below rejected the plaint by impugned order dated 05.06.2017, against which, this revision petition has been filed.

3.Heard the learned counsel for the petitioner and perused the materials available on record.



4. Perusal of the records shows that the revision petitioner filed O.S.No.947/2012 on the file of III Additional Subordinate Judge, Madurai, against the defendants. In the above suit, the defendants have examined one K.S.Ramudu as DW2. Thereafter, the plaintiff issued a notice to the above witness K.S.Ramudu on 25.02.2016 to the address mentioned in the proof affidavit filed by the said witness. The said notice was returned as 'insufficient address'. Therefore, the revision petitioner filed the present suit contending that the defendants have mentioned the wrong address of the above said witness K.S.Ramudu and examined him and hence, they are liable to pay Rs.15,000/- to the revision petitioner. However, the Court below by impugned order rejected the plaint. Hence, the petitioner has filed this revision.

5. For getting damages, the petitioner has to prove how his legal rights are infringed and that can be decided only in O.S.No.947/2012 and not by filing a separate suit. As far as the present suit is concerned, the learned Judge has rightly dismissed the application as there is no cause of action in filing the present suit and the petitioner has to state his agony in the pending suit O.S.No.947/2012 and if at all the learned Judge finds that the petitioner has been affected or the petitioner was put to serious prejudice and mental agony by the respondents by giving wrong address, the learned Judge would award damages by way of cost to the petitioner. Giving wrong address either to delay the suit or to prejudice the other party is definitely condemnable. Therefore, the petitioner is given liberty to approach the Court where O.S.No.947/2012 is pending and seek damages for giving wrong address of the witness. It is for the learned Judge to consider the plea of the petitioner while disposing of the above suit and if it is established, then, it is for the Court to order cost.

With the above observation, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

- 1 The Principal District Munsif,
Madurai Town.
- 2 The III Additional Subordinate Judge,
Madurai.
- 3 The Section Officer, VR Section, **(2 Copies)**
Madurai Bench of Madras High Court, Madurai.

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