



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.02.2018

DELIVERED ON : 17.04.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD)No.2163 of 2017

and

C.M.P. (MD)No.10654 of 2017

Dhanapal : Petitioner / Petitioner / Defendant

vs.

R.Sakkaraipandi : Respondent / Respondent / Plaintiff

PRAYER : Petition filed under Article 227 of the Constitution of India against the order in I.A.No.329 of 2017 in O.S.No.20 of 2014 dated 12.07.2017 passed by the learned VI Additional District Judge, Madurai.

For Petitioner : Mr.G.R.Inbaraj
For Respondent : Mr.T.C.S.Thillainayagam

ORDER

This Civil Revision Petition has been filed to set aside the order passed by the learned VI Additional District Judge, Madurai in I.A.No.329 of 2017 in O.S.No.20 of 2014 dated 12.07.2017.

2. The facts of the case are that the respondent herein, as plaintiff, has filed the suit in O.S.No.20 of 2014, seeking recovery of money based on 10 pro-notes, executed by the petitioner herein/defendant. During the course of the proceedings, the petitioner/defendant has filed an interlocutory application in I.A.No.329 of 2017 to frame additional issues, stating that the trial Judge, earlier, has framed only three issues which are not sufficient. The trial Court, after hearing both the sides, has dismissed the said interlocutory application. Aggrieved over the same, the present civil revision petition came to be filed.

3. The learned Counsel for the petitioner would submit that the suit itself is not maintainable on the ground of territorial jurisdiction, but, contrarily, the trial Judge has taken the suit on file and has framed only three issues. According to the petitioner, the issues framed are totally irrelevant to the



averments taken out by him in the written statements. Therefore, the petitioner was constrained to file the present interlocutory application in I.A.No.329 of 2017 under Order 14 Rule 5 of the Civil Procedure Code (in short "Code") to raise additional issues besides the issues that were already framed. But, the learned trial Judge, without appreciating the same, has erroneously dismissed the said petition and he seeks interference from this Court.

4. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent and perused the documents placed on record.

5. A perusal of the impugned order would show that the trial Court has dismissed the interlocutory application in I.A.No.329 of 2017, with the following observations:

5.1. Issues are framed based on several facts. In fact, issues are nothing but compilation of facts. Compilation of issues is the cause of action of a case. In the present case on hand, the proposed issues raised by the petitioner/defendant are nothing but facts and it is not necessary to raise new issues for each and every single facts, when the same can very well be addressed by the issues that were already framed.

5.2. The statute provides certain procedures to be followed before framing issues and in the present case on hand, after following the same, issues were framed, which is not disputed by the petitioner/defendant. The suit is now at the stage of trial and at this juncture, it is not necessary to repeat the said procedures to frame further issues. Moreover, on a perusal of the proposed issues, it is seen that they can be addressed by the issues that were already framed.

6. Perusal of the records shows that in the earlier rounds of litigation, when the suit was posted for trial, the petitioner/defendant has filed I.A.No.1078 of 2014, raising three issues regarding jurisdiction and to decide the same as preliminary issues. After an elaborate enquiry, the trial Court has dismissed the said petition on 08.01.2016, which was confirmed by this Court in C.R.P.(MD)No.960 of 2016 dated 28.04.2016. Thereafter, one G.R.Inbaraj, father of the petitioner/defendant has filed I.A.No.462 of 2015 to implead him as a party to the proceedings, which was dismissed by the trial Court after elaborate enquiry. Subsequent thereto, the said G.R.Inbaraj has filed vakalat to appear on behalf of his son, the petitioner/defendant. Subsequently, the petitioner/defendant has filed I.A.No.1026 of 2016 to summon the Income Tax Office and the same was dismissed by the trial Court on 21.03.2017. In the meantime, the present interlocutory application in I.A.No.329 of 2017 was filed to raise 21 issues and the same was also dismissed by the trial Court, which is questioned in the present revision.



7. Perusal of the record also shows that pending disposal of I.A.No.329 of 2017, the petitioner/defendant has filed I.A.No.430 of 2017 for rejection of plaint, which was also dismissed by the trial Court. Thereafter, I.A.No.749 of 2017 came to be filed to summon PW4 and the same is pending. In addition to that, two more petitions are also filed to recall PW4 and to receive additional document and the same are yet to be numbered. All these interlocutory applications were filed by the petitioner/defendant. The suit is of the year 2014 and by means of filing petition after petition, the petitioner/defendant has successfully stalled the proceedings for the past four years. In view of this act of the petitioner/defendant, the trial Court has strictly directed him to let in evidence and such being so, the petitioner/defendant has now filed Tr.O.P.No.2 of 2018 before the Principal District Judge, Madurai to transfer the case to some other Court and the same is pending adjudication.

8. Considering the facts and circumstances of the case, this Court is of the view that the present petition is nothing but a clear abuse of process of the Court. Therefore, the civil revision petition is liable to be dismissed and the same is accordingly dismissed with the cost of Rs.10,000/- (Rupees Ten Thousand only) to be paid to the respondent. The impugned order dated 12.07.2017, passed by the learned VI Additional District Judge, Madurai, stands confirmed. Consequently, connected miscellaneous petition is closed.

MEMORANDUM OF COST

Respondent	Rs. P.	
Stamp for Vakalatnama		
Advocate's fee		
Translation Printing/Typing Charges		
Cost of Civil Revision Petition		
To be paid by the Petitioner	10,000	00
to the Respondent		

	10,000	00

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

The VI Additional District Judge, Madurai.

COPY TO:-

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THE SECTION OFFICER, (2 COPIES)

V.R. SECTION, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+2 CC TO Mr. G.R.INBARAJ , Advocate, Sr.No. 62157

+1 CC TO Mr. T.C.S.THILLAINAYAGAM , Advocate, Sr.No. 61785

JAM/29/05/2018/ SKN-RSK/SAR 2/ 4P-7C

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