



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.02.2018

DELIVERED ON : 09.03.2018

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.R.P. (PD) (MD) Nos.2437 & 2438 of 2017
and
C.M.P. (MD) Nos.11564 to 11566 of 2017

K.R.Ravirathinam : Petitioner /
Petitioner / Plaintiff (in both
petitions)

vs.

1.Rockline Venkatesh

2.S.Ponkumar

3.K.S.Ravikumar

4.Sivaji Rao @ Rajinikanth

5.The General Secretary,
South Indian Film Writers Association,
L-33-Flat 1, 2nd Floor,
L.I.G. Bharathidasan Colony,
K.K.Nagar, Chennai - 600 078. : Respondents /
Respondents / Defendants (in both
Petitions)

COMMON PRAYER : Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 24.10.2017 passed in I.A.Nos.656 & 657 of 2017 respectively, in O.S.No.46 of 2015 on the file of the Additional District Munsif Court, Madurai.

For Petitioner in both
the petitions : Mr.A.Kannan

For respondents 1 & 2
in both the petitions : Mr.M.P.Senthil
for M/s.Rugan & Arya

For respondent Nos.3 to 5
in both the petitions : No appearance



COMMON ORDER

As the issue involved in both the civil revision petitions are interrelated to each other, they were heard together and are disposed of by way of this common order.

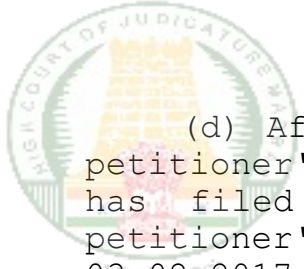
2. These Civil Revision Petitions have been filed to set aside the fair and decreetal orders passed by the learned Additional District Munsif, Madurai in I.A.Nos.656 & 657 of 2017 respectively, in O.S.No.46 of 2015 dated 24.10.2017.

3. The brief facts of the case are as follows:

(a) The revision petitioner / plaintiff has initially filed a writ petition in W.P.(MD).No.18210 of 2014 seeking a direction to the official respondents therein to stop the release of film 'Linga' and give protection to his life and liberty by considering his representation dated 01.11.2014. The said writ petition was dismissed by this Court on 03.12.2014, against which the revision petitioner has filed W.A.(MD).No.1443 of 2013. A Division Bench of this Court, vide order dated 11.12.2014, directed the revision petitioner to file a civil suit within a period of four weeks holding that the prayer sought for by the revision petitioner cannot be maintained under writ jurisdiction. However, the Division Bench has directed the respondents herein to deposit Rs.5 crores and to furnish bank guarantee for Rs.5 crores for the release of the subject movie 'lingaa' and thereafter, the petitioner has filed the present suit in O.S.No.46 of 2015 against the respondents herein / defendants for the relief of declaration that the story of the film "Linga" and "Mullai Vanam 999" are one and the same and belongs to the plaintiff, and for direction to pay cost of this action.

(b) Aggrieved by the said order of the Division Bench, the 1st respondent herein has filed SLP(C).No.1272 of 2015. The Hon'ble Supreme Court, by order dated 11.12.2014, directed the first respondent herein to furnish bank guarantee for Rs.1 crore, thereby modified the order passed in the writ appeal. The Hon'ble Supreme Court has further directed the Court below to dispose of the suit within six months. The respondents / defendants have also filed their written statement within four weeks before the trial Court. When the 1st respondent / 1st defendant approached this Court in Tr.C.M.P.(MD).No.411 of 2015 seeking to transfer the case to any other Court for speedy disposal, this Court directed the Court below to conduct the trial on day to day basis and to dispose of the suit on or before 30.04.2016.

(c) During the course of proceedings, the petitioner / plaintiff has filed an interlocutory application in I.A.No.97 of 2016 seeking to appoint a committee of experts not below the count of nine members to examine the scripts of both "Linga" and "Mullai Vanam 999" and to compare the same. The said interlocutory application was dismissed by the trial Court, which was subsequently confirmed by this Court in C.R.P.(MD)No.846 of 2016.



(d) After completion of evidence, when the suit was posted for petitioner's / plaintiff's side argument, the petitioner / plaintiff has filed I.A.Nos.656 & 657 of 2017 seeking to re-open the petitioner's / plaintiff's side evidence, which was closed on 03.02.2017 and to pass an order to summon the 3rd respondent / 3rd defendant to appear before the trial Court respectively. The said interlocutory applications were dismissed by the trial Court, challenging which, the present civil revision petitions came to be filed.

4. The learned Counsel for the petitioner / plaintiff would submit that the evidence on the side of the petitioner / plaintiff was closed on 03.02.2017. The evidence on the side of the respondents / defendants was closed on 01.09.2017, without examining the 3rd and 4th defendants and without marking full story of the feature film 'Linga'. As the respondents 1 and 2 / defendants 1 and 2 deposed that the 3rd respondent / 3rd defendant has finalized the story with several changes, the presence of the 3rd respondent, along with full story in the written format is just and necessary, for which the plaintiff's side evidence has to be reopened. Without considering these facts, the trial Court has erroneously rejected his plea and therefore, he seeks interference of this Court.

5. On the other hand, the learned Counsel appearing for the respondents 1 & 2 would submit that in the earlier occasion, without their knowledge, the petitioner herein has filed a writ petition praying to stop the release of the film "Linga", which was dismissed by this Court and after some rounds of litigation, the matter went upto the Hon'ble Supreme Court in SLP(C)No.1272 of 2015, wherein, the Hon'ble Supreme Court, by an order dated 20.03.2015, has modified the quantum of amount to be deposited and directed the trial Court to dispose of the suit in O.S.No.45 of 2015 within a period of six months. He would further submit that this Court has also directed in Tr.C.M.P.No.411 of 2015 to dispose of the suit on or before 30.04.2016. Despite the said direction of the Hon'ble Supreme Court as well as this Court, the petitioner / plaintiff, by filing petition after petition, has stalled the disposal of the suit and only in order to drag on the proceedings and to fill up the lacuna, the petitioner / plaintiff has filed I.A.Nos.656 and 657 of 2017 and the Court below has rightly dismissed the said petitions. Thus, he prays for dismissal of the present revision petitions.

6. Heard the learned Counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 2 and perused the documents placed on record.

7. The main grievance of the petitioner is that the evidence on the side of the respondents / defendants was closed on 01.09.2017, without examining the 3rd and 4th defendants and without marking full story of the feature film 'Linga'. It is seen that the story of "Mullai Vanam 999" is not filed before the Court. However, he sought to file the full story of film 'Linga', which is already in



the public domain. The burden of proving the similarity or identity of the two stories rests heavily upon the petitioner / plaintiff. Normally, a party to the suit is expected to step into the witness box in support of his own case and if a party does not appear in the witness box, it would be open to the trial Court to draw an inference against him. In this case, the 3rd respondent / 3rd defendant did not appear in the witness box and therefore, it is not open to the petitioner / plaintiff to compel his presence by issue of a witness summons. The Court below has rightly dismissed the said interlocutory applications. There is no reason to interfere with the orders passed by the Court below.

8. In the result, both the civil revision petitions are dismissed. It is seen from the record that the petitioner has been filing application after application only to drag on the suit and hence, the Court below is not in a position to dispose of the suit within a stipulated time. However, this Court reiterates that the Court below is directed to conduct the case on day to day basis and dispose of the suit as early as possible. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The Additional District Munsif,
Madurai.

+1cc to Mr.M.P.Senthil, Advocate, SR.No. 54153

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KK/GT/21.03.2018/SAR-2/4P-3C