



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2018

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD) Nos.28 and 29 of 2016
and C.M.P.(MD) No.121 of 2016

In C.R.P.(MD) No.28 of 2016:

S.Ravichandran ...Petitioner/Petitioner/Plaintiff
-Vs-

1.M/s.Shri Naga Agencies
Represented its partners
K.Nagarathinam and K.Balakumar
Having Office at
23, Jawahar Road,
Chokkikulam,
Madurai.

2.K.Nagarathinam

3.K.Balakumar ... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India against the fair and decreetal order dated 06.11.2015 passed in I.A.No.848 of 2015 in O.S.No.25 of 2012 on the file of VI Additional District Judge, Madurai.

In C.R.P.(MD) No.29 of 2016:

S.Ravichandran ...Petitioner/Petitioner/Plaintiff
-Vs-

1.M/s.Shri Naga Agencies
Represented its partners
K.Nagarathinam and K.Balakumar
Having Office at
23, Jawahar Road,
Chokkikulam,
Madurai.

2.K.Nagarathinam

3.K.Balakumar ... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India against the fair and decreetal order dated 06.11.2015 passed in I.A.No.849 of 2015 in O.S.No.25 of 2012 on the file of VI Additional District Judge, Madurai.



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In both petitions:

For Petitioner : Mr.D.Nallathambi
For R1 & R3 : Ms.Barkavi
for Mr.M.Rajaraman
For R2 : No appearance

C O M M O N O R D E R

The plaintiff in O.S.No.25 of 2012 on the file of the VI Additional District Judge, Madurai is the revision petitioner herein.

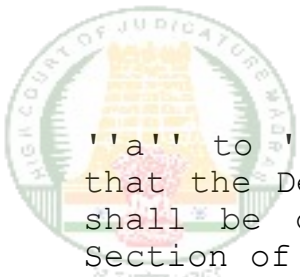
2. It is a suit for directing the defendants to pay a sum of Rs.35,82,000/- together with interest. In the said suit, the revision petitioner took out two applications. One was filed under Rule 74 of Civil Rules of Practice to send for the written statement filed by the second respondent herein before the Debt Recovery Tribunal. He also filed an application under Order 12 Rule 8 C.P.C and Section 151 C.P.C for issuing notice to produce the very same documents. The court below took the view that Rule 74 can be invoked only when the application is for production of records that are in the custody of the court. In the present case, the plaintiff wanted production of documents from a Tribunal. Since it is not a court, the application came to be dismissed. For the very same reason, the application filed under Order 12 Rule 8 C.P.C and Section 151 C.P.C also suffered a dismissal. Questioning both the orders, these Civil Revision Petitions have been filed before this Court.

3. Heard the learned counsel on either side.

4. Rule 74 of Civil Rules of Practice enables the court to send for documents that are in the custody of another court. Even though in this case, the documents sought for are in the custody of the Debt Recovery Tribunal, the court below ought to have considered the Debt Recovery Tribunal only as a court.

5. In this regard, it would be useful to take note of Section 3 of the Indian Evidence Act, 1872 which states that "Court" includes all Judges and Magistrates and all persons except Arbitrators legally authorised to take evidence.

6. The Debt Recovery Tribunal was constituted by the Central Act 51 of 1993. Though as per Section 22(1) of the said Act, the Debt Recovery Tribunal and the Appellate Tribunal are not bound by the procedure laid down in the Code of Civil Procedure, they have same powers as are vested in a Civil Court under the Code of Civil Procedure. While trying a suit in respect matters set out in



'a' to 'h' of Section 22(2). Section 22(3) of the Act states that the Debt Recovery Tribunal as well as the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure. In any event, the court below ought to have adopted a liberal approach in interpretation of the Rule in question.

7. The court below clearly erred in dismissing the Interlocutory Application filed by the petitioner. Therefore, the order dated 06.11.2015 in I.A.No.848 of 2015 is set aside. Accordingly, C.R.P.(MD) No.28 of 2018 is allowed.

8. When C.R.P.(MD) No. 29 of 2016 was taken up, the learned counsel appearing for the respondents fairly submitted that the respondents shall file the authenticated copy of the document sought for by the revision petitioner herein. Production of the said document will be accompanied by a verifying affidavit. If such document is produced within a period of two weeks from the date of receipt of a copy of this order, even though C.R.P.(MD) No.28 of 2018 is allowed, the court below need not send for such document. The Civil Revision Petition in C.R.P.(MD) No.29 of 2018 is allowed in the above terms. No costs. Consequently, connected C.M.P.(MD) No.121 of 2016 is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-III)

To,
The VI Additional District Judge, Madurai.

+1 CC To MR.D.NALLATHAMBI, Advocate SR. NO. 80161

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and C.M.P.(MD) No.121 of 2016

24.08.2018

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