



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD).No.535 of 2016 and
C.M.P. (MD)Nos.2288 & 5953 of 2016

Manickam ... Petitioner/Petitioner/
Defendant

Vs.

K.S.Anbalagan ... Respondent/Respondent/
Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the order passed by the learned Subordinate Judge, Srivilliputhur, in I.A.No.501 of 2015 in O.S.No.247 of 2012 vide order dated 24.08.2015 and set aside the same.

For Petitioner : Mr.P.Samuel Gunasingh,
for Mr.R.Niresh Kumar.
For Respondent : Mr.S.Jawahar

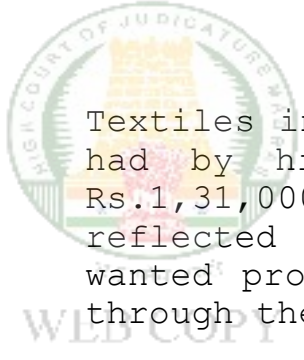
O R D E R

The defendant in O.S.No.247 of 2012 on the file of the Subordinate Court, Srivilliputhur, is the Revision petitioner herein.

2. The respondent herein filed the said suit for directing the Revision petitioner to pay a sum of Rs.4,28,050/- together with interest. The suit was laid on the basis of the Mortgage Deed dated 21.06.2010. During the pendency of the suit, the Revision petitioner herein filed I.A.No.501 of 2015 under Order 16 Rule 2 of C.P.C, for directing production of the Ledger books maintained by E.K.S.Dhanam Textiles for the period from 2010 to 2012 and for compelling the Manager of the said Textiles to tender evidence in that regard. The Court below by order dated 24.08.2015 dismissed the said application. The correctness of the said order is under challenge in this Civil Revision petition.

3. Heard the learned counsel on either side.

4. The learned counsel appearing for the Revision petitioner submitted that the Revision petitioner in order to clear the mortgage debt, had worked as a contract labour in E.K.S.Dhanam



Textiles in which the plaintiff/respondent herein is a partner. He had by his labour liquidated his liability to the tune of Rs.1,31,000/-. He would maintain that the said amount is duly reflected in the ledger books of the said firm. He therefore wanted production of the said ledger books for marking the same through their own employee.

5. I am unable to agree with the said submissions of the learned counsel appearing for the Revision petitioner.

6. As rightly pointed out by the Court below, the execution of the Mortgage Deed is admitted. The mortgage transaction is only between the Revision petitioner S.Manickam and the plaintiff K.S.Anbalagan. It is not the case of the Revision petitioner that there is any document issued by the plaintiff to the Revision petitioner to adjust the amount in this manner. It is obvious that there are two transactions in this case. One is mortgage transaction between the Revision petitioner and the plaintiff. The other is the labour work done by the petitioner to E.K.S.Dhanam Textiles. Both the transactions cannot be clubbed. The Court below has observed that the Revision petitioner has admitted that the plaintiff has not executed any document that a payment made to E.K.S.Dhanam Textiles can be adjusted towards the mortgage debt.

7. Therefore, the reasons given by the Court below for dismissing the Interlocutory application are sound and acceptable. No ground has been made out for interference.

8. The Civil Revision petition stands dismissed, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Subordinate Judge, Srivilliputhur.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.R.NIRESH KUMAR, ADVOCATE IN SR No. 81184

PMU

TE/RSK/SAR-1 : 24/09/2018 : 2P/5C

<https://hcservices.ecourts.gov.in/hcservices/>

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