



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) (PD) No.1999 and 2000 of 2018
and
C.M.P. (MD) No.8796 of 2018

Ramasubramaniam

...Petitioner / Petitioner / Defendant
(in both petitions)

/Vs./

Mythili Kanagavel

...Respondent/Respondent/Plaintiff
(in both petitions)

Common Prayer: Civil Revision Petitions - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 26.07.2018 passed in I.A.Nos.94 and 95 of 2018 in O.S.No.49 of 2014 on the file of the learned IV Additional District Judge, Tirunelveli, and allow the civil revision petitions.

For Petitioner : Mr.V.Balaji
for M/s.Niranjana S.Kumar
(in both petitions)

COMMON ORDER

The defendant in O.S.No.49 of 2014 on the file of the IV Additional District Court, Tirunelveli, is the revision petitioner herein. The respondent has filed money suit against the revision petitioner herein. The case of the revision petitioner is that the cheque in question was signed by him, but the other details set out in the said cheque were not written by him. In this regard, he took out an application in I.A.No.94 of 2018 for appointment of an Advocate Commissioner to send the cheque in question for expert opinion. The Court below, by an order dated 26.07.2018 dismissed the said I.A.No.94 of 2018. The correctness of the said order is questioned in C.R.P. (MD) (PD) No.1999 of 2018.

2. This Court is of the view that since as per Section 20 of the Negotiable Instruments Act, 1881, prima facie authority is given to the holder of a cheque to make or complete an inchoate negotiable instrument, the order passed by the Court below does not warrant interference. Accordingly, the civil revision petition in C.R.P. (MD) (PD) No.1999 of 2018 is therefore dismissed. No costs.



Consequently, connected Miscellaneous Petition is dismissed.

3. The plaintiff, during the course of her cross examination had admitted that the payment of the loan amount would be reflected in the income tax returns of her husband. Therefore, the revision petitioner filed I.A.No.95 of 2018 for directing the plaintiff to produce the income tax particulars of her husband and the income tax return submitted by her husband for the Accounting Year 2012-13. In response, the plaintiff, in her counter submitted that she is not having custody of the said documents. In view of the stand taken by the plaintiff, the Court below dismissed the said I.A.No.95 of 2018. Correctness of the said order is questioned in C.R.P.(MD) (PD)No.2000 of 2018.

4. This Court is of the view that since the plaintiff has taken the stand that she is not having the documents in question, she cannot be compelled to produce the same. Therefore, the Court below is justified in dismissing the I.A.No.95 of 2018.

5. When the matter was taken up for hearing, the learned counsel appearing for the revision petitioner submitted that he would take recourse to other remedies available to him in law, such as sending for the documents in question. If such an application is taken out by the revision petitioner, the same shall be disposed of on merits and in accordance with law uninfluenced by the dismissal of I.A.No.95 of 2018.

6. With these observations, the civil revision petition in C.R.P.(MD) (PD)No.2000 of 2018 is disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The IV Additional District Judge, Tirunelveli.

2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+2CCs TO MR.NIRANJAN S.KUMAR, ADVOCATE IN SR.NOs.83234,83233.

SM

DS SKN SAR-1 09.10.2018 2P/6C

Common Order made in
C.R.P.(MD) (PD)No.1999 and 2000 of 2018
10.09.2018