



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (PD) (MD) Nos.763 and 764 of 2019
and
CMP (MD) No.4648 of 2019

Natimuthu ... Petitioner in both CRPs

vs.

Vasantha ... Respondent in both CRPs

Petitions filed under Article 227 of the Constitution of India, to set aside the fair and executable order passed in I.A.Nos.26 and 27 of 2019 in O.S.No.130 of 2015 dated 21.02.2019 in the court of the District Munsif Court, Ramanathapuram, in Ramanathapuram District.

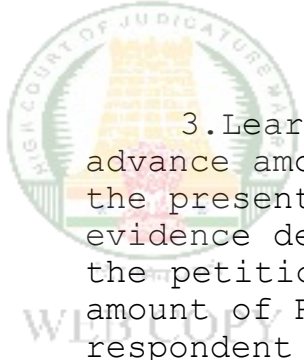
In both CRPs

For Petitioner : Mr.J.M.Hassanul Bazari
For Respondent : Mr.K.Mahendran

COMMON ORDER

These revision petitions are filed to set aside the fair and executable order passed in I.A.Nos.26 and 27 of 2019 in O.S.No.130 of 2015 dated 21.02.2019 in the court of the District Munsif Court, Ramanathapuram, in Ramanathapuram District.

2.According to the petitioner, the suit property originally belonged to one Saibu Nisha and by a rental agreement dated 17.09.2003, the petitioner was inducted as a tenant under Saibu Nisha for a monthly rent of Rs.550/- and an advance of Rs.10,000/-. The petitioner was running a hotel in two shops under the name and style of ''Revathi Hotel'' and subsequently the monthly rent was also enhanced. Thereafter, the respondent/plaintiff purchased the suit property from Saibu Nisha in 2009 and the respondent demanded advance of Rs.50,000/- from the petitioner which was paid by the petitioner and thereafter, the monthly rent was also enhanced to Rs.3,500/-. While so, on 12.04.2013, the respondent/plaintiff demanded additional advance amount of Rs.10,000/- which was also paid by the petitioner. According to the petitioner, the husband of the respondent was examined as plaintiff side witness.



3.Learned counsel for the petitioner would contend that the advance amount paid to the earlier owner Saibu Nisha was received by the present owner of the property and the plaintiff's husband in his evidence denied the same. When the matter was posted for arguments, the petitioner wanted to re-open the case in respect of the advance amount of Rs.10,000/- which was paid to Saibu Nisha, received by the respondent and also the petitioner wanted to enquire the respondent's daughter-in-law in respect of the requirement to run photo studio in the suit property.

4.Learned counsel for the respondent would contend that the present petitioner in his pleadings nowhere had stated that the earlier vendor had asked to pay the alleged advance amount paid to the earlier vendor by this petitioner and therefore, the petitioner cannot seek for any examination in this regard.

5.The learned Judge found that if at all the petitioner wanted to prove that a sum of Rs.10,000/- paid as advance by the petitioner was to be refunded by the respondent/plaintiff who is the subsequent purchaser, the petitioner ought to have examined the said Saibu Nisha as a witness. Further, it is for the plaintiff to prove the requirement of the suit property for running the photo studio for which the examination of the plaintiff's daughter-in-law is not necessary and therefore, the learned Judge found that only to protract the proceedings after the case was posted for arguments, the above petitions have been filed and therefore, dismissed the petitions which does not require interference from this Court.

Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To
The District Munsif,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.K.MAHENDRAN, Advocate SR-67682.

C.R.P (PD) (MD) Nos.763 and 764 of 2019