



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2019

CORAM:

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

C.R.P (MD) (PD)No.1658 of 2018 and

C.M.P. (MD)No.7267 of 2018

Dhanakodeeswari ... Petitioner/Petitioner/Defendant

Vs.

N.Vellaisamy ... Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order made in I.A.No.187 of 2017 in O.S.No.98 of 2016 on the file of the Additional District Court (Fast Track Court), Palani, dated 19.04.2018.

For Petitioner :Mr.S.Gokulraj
For Respondent :Mr.A.Prasanna Rajadurai

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order made in I.A.No.187 of 2017 in O.S.No.98 of 2016 on the file of the Additional District Court (Fast Track Court), Palani, dated 19.04.2018.

2.The petitioner herein is the defendant in O.S.No.98 of 2016 on the file of the the Additional District Court (Fast Track Court), Palani, filed I.A.No.187 of 2017 in O.S.No.98 of 2016. The respondent herein, as plaintiff, filed the suit in O.S.No.98 of 2016 for recovery of amount under the cheque issued by him to the petitioner / defendant, dated 11.03.2014 for her family expenses and urgent expenses.

3.The petitioner herein has filed an application in I.A.No.187 of 2017 to dismiss the suit with costs. In the said petition, the petitioner contended that she has not received any amount from the respondent / plaintiff and she has not issued any cheque to him and hence, the issuance of cheque and the sum of Rs.10,00,000/- claimed by the respondent is false. Further, the petitioner contended that if the cheque was issued to the plaintiff on the date specified by him, what prevented the plaintiff to present the cheque for collection and if it is not honoured, after six months, what prevented him from taking proper action for the said dishonour of cheque. Hence, the petitioner stated that no cause



of action has arisen and the relief sought by the plaintiff has to be dismissed for want of cause of action.

4.The respondent / plaintiff in the counter affidavit contended that on 11.03.2014, the defendant issued a cheque to him on receipt of a sum of Rs.10,00,000/-. Since the defendant requested the plaintiff not to deposit the said cheque, stating that she will settle the entire amount and he did not present the cheque for collection.

5.The respondent further contended in the counter affidavit that on 06.01.2016, he issued notice to the defendant / petitioner and after receipt of the said notice, the petitioner has sent a reply only on 05.03.2016. In the said reply notice, the revision petitioner admitted the issuance of cheque to the plaintiff, whereas, she has contradicted her view in the affidavit filed by her in the petition to dismiss the suit.

6.The Trial Court observed the contentions raised by the petitioner seeking for dismissing the suit and also the contentions raised by the respondent / plaintiff and the date of issue of cheque and the relief sought by the plaintiff everything is very much discussed, especially, reply notice, that was signed by the revision petitioner, wherein, he has admitted the issue of cheque and this aspect of admission by the revision petitioner regarding issue of cheque, the said case and the cause of action is very much reliable and hence, the trial Court has dismissed the said petition filed by the petitioner. Aggrieved against the same, the revision petitioner has preferred the above Civil Revision Petition.

7.Filing of this Civil Revision Petition, the petitioner has nothing to say when, there is an abuse of auction, which has been observed by the trial Court by verifying the legal notice issued by the respondent and also the petitioner's claim admitting the issuance of cheque and these aspects are very much proved only at the trial and hence dismissing the petition filed by the revision petitioner / defendant is very much reasonable, based on facts and law and hence, the order of the trial Court does not require any interference.



8.Hence, the Civil Revision Petition is dismissed and the order made in I.A.No.187 of 2018 in O.S.No.98 of 2016 on the file of the Additional District Court (Fast Track Court), Palani, dated 19.04.2018 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

cmr

To

1.The Additional District Court (Fast Track Court),
Palani.

1CC TO MR. S.GOKULRAJ, ADVOCATE SR 6002

1CC TO MR. A. PRAHSNNA RAJADURAI, ADVOCATE SR 60486

DS

23/04/2019

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C.R.P(MD) (PD)No.1658 of 2018

09.04.2019