



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 25.09.2019

CORAM

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD) .No.610 of 2016

and

C.M.P. (MD) .No.2761 of 2016

Kairasi Motor Finance represented
by its Managing Partner,
A.P.Ravichandran.

... Petitioner/Respondent/
Defendant

-Vs-

Parvathy

... Respondent/Petitioner/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 02.02.2016 in I.A.No.36 of 2016 in O.S.No.104 of 2005 on the file of the learned District Munsif cum Judicial Magistrate, Keeranur.

For Petitioners : Mr.S.Vinod Sathya Lazar

For Respondent : Mr.P.Ganapathi Subramanian

O R D E R

The present civil revision petition is filed against the order passed by the learned District Munsif cum Judicial Magistrate, Keeranur in I.A.No.36 of 2016 in O.S.No.104 of 2005, dated 02.02.2016.

2. While allowing the application in I.A.No.36 of 2016, the learned District Munsif cum Judicial Magistrate, Keeranur, directed the revision petitioner/defendant to furnish (i) Ledger Book of 2005 comprising accounts and seizure of all vehicles by the defendant, (ii) Audit Report submitted by the defendant for the year 2005 and (iii) Pan Card Number of the defendant. Challenging the above order, the revision petitioner herein filed the present civil revision petition and contend that the order passed by the Court below is not sustainable under law, due to the reason that under Order 12 Rule 8 of Civil Procedure Code, if at all if the respondent intends to get any document from the revision petitioner, she has to issue proper notice in Form No.12 in Appendix C. According to the revision petitioner, no such notice was served on him. In the absence of



notice, the order passed by the Court below is liable to be set aside.

3. The learned counsel appearing for the respondent admitted the fact that she has not issued any notice in Form No.12 in Appendix C and he fairly conceded that in the event of disposing of this revision petition, the respondent may be permitted to issue notice in Form No.12 in Appendix C, in terms of Order 12 Rule 8 of Civil Procedure Code. The learned counsel appearing for the revision petitioner also contended that in the event of issuing such notice, if the revision petitioner is refused to produce the said documents, then the adverse inference can be drawn against the revision petitioner.

4. Heard the learned counsel on either side and perused the documents available on record.

5. Admittedly, the Court below directed the revision petitioner/defendant to furnish (i) Ledger Book of 2005 comprising accounts and seizure of all vehicles by the defendant, (ii) Audit Report submitted by the defendant for the year 2005 and (iii) Pan Card Number of the defendant and in terms of Order 12 Rule 8 of Civil Procedure Code, if the respondent/plaintiff intends to get any document from the revision petitioner, she has to comply with the Order 12 Rule 8 of C.P.C., and issue notice in Form No.12 in Appendix C, but that was not done in the present case. In the absence of compliance of the provision under Order 12 Rule 8 of C.P.C., the order passed by the Court below is not sustainable under law and the same is liable to be set aside. Accordingly, the Civil Revision Petition is dismissed and the order passed by the learned District Munsif cum Judicial Magistrate, Keeranur in I.A.No.36 of 2016 in O.S.No.104 of 2005, dated 02.02.2016 is set aside.

6. While setting aside the order passed by the Court below, this Court permits the respondent/plaintiff to issue notice to the revision petitioner/defendant to produce the document in terms of Order 12 Rule 8 of Civil Procedure Code, within a period of two weeks from the date of receipt of a copy of this order. Since the present suit has been filed for declaration in the year 2005, this Court directs the Court below to dispose of the suit in O.S.No.104 of 2005 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //



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To
The District Munsif cum Judicial Magistrate,
Keeranur.

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+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-89359[F] dated
25/09/2019)

+1 CC to M/s.S.VINOD SATHIYA, Advocate (SR-90156[F] dated
27/09/2019)

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