

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP.No. 2315 of 2010

and MP.No. 1 of 2010

Kuppusami

..Petitioner/Appellant/
Defendant

Vs

Seetharaman

..Respondent/Respondent/
Plaintiff

Prayer : Civil Revision Petition is filed under Section 115 of CPC to set aside the judgment and decree dated 22.06.2009 passed in A.S.No.68/2008 on the file of the Principal Sub Court, Villupuram confirming the decree and judgment dated 28/4/2006 made in O.S. 79 of 2005 before the Principal District Munsif Court, Ulundurpet.

For Petitioner : Mr.A.Nilopher
for M/s. R.Meenal
For Respondent : Mr. G.Dilip Kumar

ORDER

The Civil Revision Petition is filed to set aside the judgment and decree dated 22.06.2009 passed in A.S.No.68/2008 on the file of the Principal Sub Court, Villupuram confirming the decree and judgment in O.S. 79 of 2005 before the Principal District Munsif Court, Ulundurpet.

2. The respondent herein is the plaintiff in the suit in O.S.No. 79 of 2015 on the file of Principal District Munsif, Ulundurpet and the petitioner herein is the defendant in the said suit. The respondent had filed the said suit for recovery of money based on the promissory note executed on 06.03.2002. The said suit came to be decreed by the trial Court by judgment and decree dated 28.04.2006. Challenging the said judgment and decree, the defendant/respondent herein had filed an appeal before the Principal Sub Court, Villupuram in A.S.No. 68 of 2008. The lower appellate court had dismissed the said appeal filed by the petitioner herein and confirmed the judgment and decree passed by the trial Court. Challenging the judgment of the lower appellate Court, the present Civil Revision Petition is filed.

3. The learned counsel for the petitioner would submit that the suit was filed based on the alleged promissory note which said to have been executed on 06.03.2002 for a sum of Rs.10,000/-. After the petitioner herein had repaid the entire amount, the respondent filed the said suit for recovery of money and the same was decreed in his favour. The learned counsel for the petitioner further submitted that the respondent had not proved the execution of the alleged promissory note and the trial Court has also disbelieved the case of the respondent that the respondent had executed a promissory note dated 06.03.2002 with the petitioner as contended by him. Therefore, it is clear that the case of the respondent is against his pleadings, which is totally against the principles of law.

4. The case of the respondent is that the petitioner herein/defendant had borrowed a sum of Rs.10,000/- on 06.03.2002 and had executed a promissory note by promising to repay the said amount with interest. Since he failed to repay the amount, the respondent had sent a legal notice on 10.02.2005 and thereafter he filed a suit for recovery of money. By taking into consideration the documents filed by the respondent, the trial Court has passed a judgment and decree in his favour. Therefore, the order of the trial court is proper and does not require any interference.

5. Heard both sides and perused the documents available on record.

6. On a perusal of the written statement filed by the petitioner herein, it is seen that the petitioner has stated that on 17.03.2003 he had paid a balance of amount of sum of Rs. 8,200/- to the plaintiff/respondent herein towards the outstanding due of sum of Rs.12,000/-. Since the plaintiff / respondent did not return the promissory note, the petitioner herein has sent a letter dated 06.06.2003 to the plaintiff through certificate of posting, due to which the plaintiff had sent a false legal notice and filed a suit against the petitioner.

7. The trial Court had failed to consider the fact that the main case of the plaintiff/respondent herein is that the defendant/petitioner herein had borrowed a sum of Rs.10,000/- on 06.03.2002 from the respondent/plaintiff and executed a promissory note to that effect and based on the said transaction, the respondent/plaintiff had filed a suit for recovery of money. It is seen from the Judgment of the trial Court that though the trial judge, in view of the contradictory statement of the respondent during his cross examination, disbelieved the contention of the plaintiff/respondent herein

that the alleged promissory note was executed on 06.03.2002, had passed an order that the petitioner/defendant is liable to pay the balance amount to the plaintiff/respondent herein for the transaction that occurred on 10.07.2000. The lower appellate court also confirmed the same, which is perverse and liable to be set aside.

8. In the result, the judgment and decree dated 22.06.2009 in A.S.No.68 of 2008 on the file of the Principal Sub Court, Villupuram is set aside. The Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal Sub Judge,
Villupuram

2.The Principal District Munsif Court,
Ulundurpet

+1 cc to M/s.R.Meenal, Advocate in SR.26290

CRP.No. 2315 of 2010
and MP.No. 1 of 2010

bs(co)
rv(24/9/2020)
rv(30/9/2020)

सत्यमेव जयते

WEB COPY