

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

**C.R.P(PD)No.1161 of 2020
and C.M.P.No.6241 of 2020**

R.Sekar

...Petitioner

Versus

S.Saravanan

....Respondent

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 05.12.2019 made in I.A.No.1 of 2019 in O.S.No.553 of 2018 on the file of the V Additional District Judge, Coimbatore.

For Petitioner

:

Mr.C.Prabakaran

ORDER

The relief sought for in the present Civil Revision Petition is to set aside the order dated 05.12.2019 passed by the learned V Additional District Judge, Coimbatore in I.A.No.1 of 2019 in O.S.No.553 of 2018, in and by which, the learned V Additional District Judge, Coimbatore had dismissed the Application filed by the petitioner herein.

2. The brief facts of the case are as follows:

The respondent/plaintiff has filed the suit O.S.No.553 of 2018 against the petitioner/defendant for the following reliefs:

(a) directing the defendant to pay a sum of Rs.31,16,800/- with the future interest at the rate of 12% per annum from the date of suit till the date of realization.

(b) award cost of the suit.

2.1 The petitioner/defendant filed a written statement in O.S.No.553 of 2018, wherein, he denied all the averments made by the respondent/plaintiff.

2.2 While the said suit is pending, the petitioner/defendant has filed an Interlocutory Application in I.A.No.1 of 2019 under Order VII Rule 11 and Section 151 of C.P.C before the learned V Additional District Judge, Coimbatore seeking to reject the plaint and the same was dismissed on 05.12.2019. Aggrieved by the order of dismissal, the petitioner/defendant has filed the present Civil Revision Petition before this Court.

3. The learned counsel for the petitioner would submit that the petitioner/defendant has no necessity to borrow any amount as alleged by the respondent/plaintiff in the plaint. The petitioner/defendant had no money transaction with the respondent/plaintiff. Only the petitioner's brother Manoharan had money transaction with the respondent/plaintiff and in order to discharge the liability to the respondent/plaintiff, the said Manoharan approached the petitioner/defendant to purchase his property and the petitioner/defendant has also purchased the property under a registered sale deed dated 08.10.2015. He would also submit that as per the recitals in the sale deed, the sale consideration was to be paid by a cheque.

Hence, the petitioner has issued the cheque towards the sale consideration. At the time of the said sale transaction, the petitioner's brother has taken some signed security documents that has been misused by the respondent/plaintiff and the petitioner's brother.

3.1 The learned counsel for the petitioner would contend that there is no cause of action arose since the suit has been filed on the basis of the fabricated documents. The subject matter of the plaint is based on the unregistered agreement coupled with pro-note contrary to the averments in the plaint. He would further contend that the plaint is liable to be rejected since the transaction was between the respondent/plaintiff and the petitioner's brother Manoharan, however, the said Manoharan was not arrayed as party to the suit. Without considering all these aspects, the Court below simply dismissed the Application filed by the petitioner/defendant. The Court below also failed to note that the aforesaid unregistered document was a concocted one. He therefore prayed that the impugned order may be set aside.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. As far as this case is concerned, the issues raised by the petitioner/defendant are triable in nature and the same can be adjudicated at the time of trial. The main contention raised by the counsel for the petitioner/defendant is that there is no cause of action for filing the suit since the documents are fabricated. However, his contention cannot be accepted.

6. Taking note of the facts and circumstances of the case, this Court is of the opinion that the admissibility of the documents cannot be decided at this stage and the same can only be decided at the time of trial. There is no merit in I.A.No.1 of 2019 filed by the petitioner/defendant and therefore, the Court below has rightly dismissed the same. I do not find any infirmity in the order of the Court below.

D.KRISHNAKUMAR, J.,

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7. In the result, this Civil Revision Petition is dismissed and the order dated 05.12.2019 passed by the learned V Additional District Judge, Coimbatore in I.A.No.1 of 2019 in O.S.No.553 of 2018 is confirmed. Considering the fact that the suit is of the year 2018, the trial Court is directed to dispose of the suit O.S.No.553 of 2018, as expeditiously as possible, within a period of eight months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

To

The Additional District Judge No.V,
Coimbatore.

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