

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2461 of 2018

and

C.M.P.No.15035 of 2018

Arumugam

.. Petitioner

Vs.

Murugesan

.. Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside a order dated 27.07.2018 made in I.A.No. 1505 of 2018 in O.S.No. 11 of 2016 on the file of the IV Additional District and Session Judge, Erode District at Bhavani by allowing this CRP.

For Petitioners : Mr.S.Lakshmanasamy

For Respondent : Mr.S.Kaithaimalai Kumaran

ORDER

The plaintiff in O.S.No.11 of 2016 has filed this revision, aggrieved by the dismissal of the application in I.A.No.1505 of 2018 in O.S.No.11 of 2016, filed to reopen the case to examine a witness on the

plaintiff's side. The suit is for recovery of money, based on a Promissory Note. It is claimed that the first defendant borrowed a sum of Rs.7,50,000/- from the plaintiff on 06.06.2013 and executed a promissory note. The suit is being resisted by the first defendant contending that he borrowed only a sum of Rs.3,50,000/- and not Rs.7,50,000/-.

2.The plaintiff examined himself as PW1 and in an attempt to examine the attestor, summons were issued. Since the witnesses did not respond to the summons, the Court ordered arrest of the witnesses. Unfortunately, the plaintiff did not pay the batta for effecting arrest resulting in non issuance of the arrest warrant. The Court closed the evidence of the plaintiff. The defendant also sought for summons to the attesting witnesses. Since, the witness did not appear despite summons being served, arrest of the witness was ordered. Pursuant to warrant of arrest, he was arrested and examined as DW2. It is after such examination, the plaintiff filed IA.No.1505 of 2018 in OS.No.11 of 2016 and the same was dismissed by the Trial Court.

3. It is to be noted that the plaintiff did not pursue the matter earlier by paying batta for arrest of the witnesses. On the other hand the defendant has been deligent. He had the witness arrested and examined as DW2. The plaintiff is now attempting to fill up the lacuna. Even if the plaintiff is allowed to reopen this case and examine the witnesses now it may not be very useful in as much as the execution of the promissory note is not denied.

4. Therefore, I do not see any ground to interfere with the order of the trial Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.12.2020

kmm

Internet: Yes/No

Index: Yes/No

To

The IV Additional District and Session Judge,

Erode District,

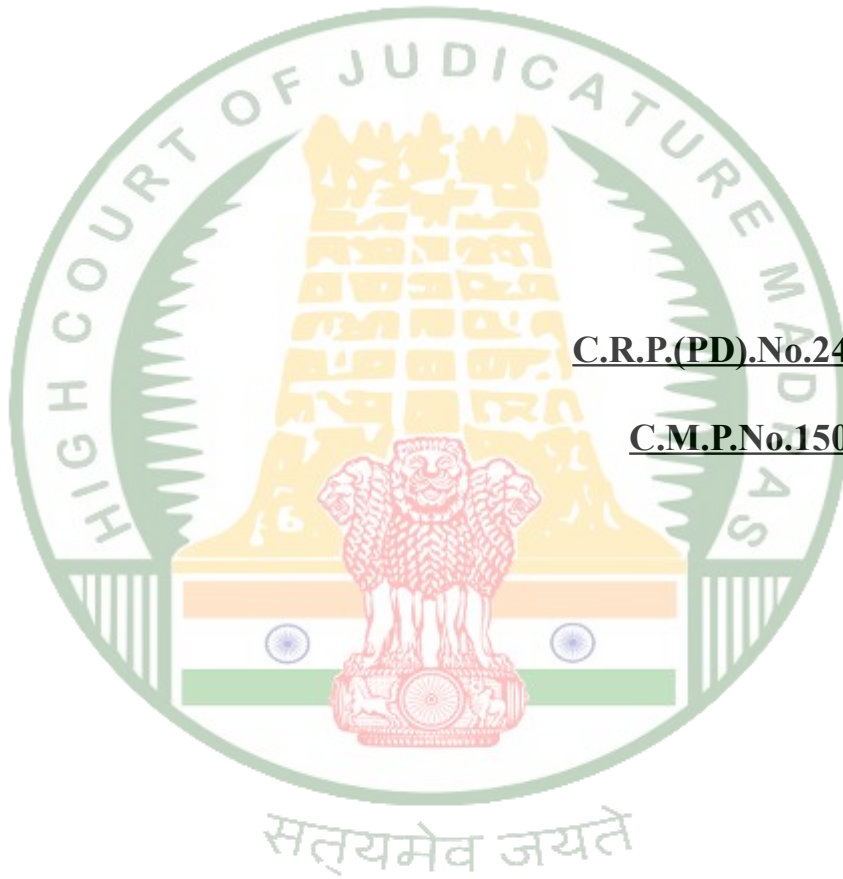
Bhavani.

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R.SUBRAMANIAN, J.

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