

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(PD).No.4104 of 2019

and

C.M.P.No.26806 of 2019

Sumathi

...Petitioner

Vs

P.Mani

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the Fair and Final order dated 13.08.2019 made in I.A.No.1 of 2019 in O.S.No.58 of 2017 on the file of Sub Court, Rasipuram and allow the said application by allowing above Civil Revision Petition.

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For Petitioner : Mr.S.Sounthar
For Respondent : No Appearance

ORDER

This Civil Revision Petition has been filed to set aside the order dated 13.08.2019 made in I.A.No.1 of 2019 in O.S.No.58 of 2017 on the file of Sub Court, Rasipuram.

2. The plaintiff/Mani has filed the suit in O.S.No.58 of 2017 against the defendant/Sumathy for recovery of Rs.3,00,000/- with 36% interest based on promissory note dated on 27.07.2014. In the suit, the defendant denied the borrowing of amount of Rs.3,00,000/- with 36% interest. He admitted his signature in the pronote and also contended that plaintiff obtained unfilled promissory note with his signature. Since the plaintiff compelled the defendant for money, the defendant given a complaint before the Rasipuram Police Station and they enquired the matter. At the time of enquiry, the defendant paid a sum of Rs.10,000/- to the plaintiff and accepted to repay further sum of Rs.20,000/- before April 15 and within one year, he promised to repay the entire amount. Thereafter, he repaid the entire amount to the plaintiff. In order to grab money from the defendant by using the forged pronotes, he filed the suit. During trial, in

order to prove the defence case, he filed the petition in I.A.No.1 of 2019 to receive three documents viz. the complaint before Rasipuram Police Station on 28.02.2016, postal report dated 19.07.2019 and complaint copy dated 19.07.2019. The trial Court rejected the petition on the ground that receipt for the complaint was not enclosed and the petitioner failed to adduce any prima facie case for not filing the document while filing his written statement. Aggrieved by this order, the petitioner filed this Revision Petition.

3.The learned counsel for the petitioner submitted that the order of the trial Court is contrary to law and unjust. The evidentiary value of the documents should be considered at the time of marking the documents. The relevance and evidentiary value should be considered at the time of receiving the document. At the time of filing written statement, the revision petitioner was not able to find the copy of the complaint which was disclosed in the affidavit. While the trial Court failed to consider the fact, erroneously dismissed the petition and denied to receive the document and reiterated other ground raised in the Revision Petition and thus pleaded to

set aside the order of the trial Court and allow the Revision Petition.

4. Notice has been served but none appeared on behalf of the respondent.

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

6. Admittedly, the plaintiff filed the suit against the defendant for recovery of money of a sum of Rs.3,00,000/- with 36 % interest based on three pronotes. As stated above, the defendant filed the written statement denying the borrowal of amount of Rs.3,00,000/- with 36% interest. On the compulsion of the plaintiff, the defendant given a complaint before the Rasipuram Police Station, they enquired the matter with regard to that and to substantiate the defence before the trial Court, the defendant filed a petition to receive a copy of the complaint given against the plaintiff. Merely, because the party is producing documents at a very late stage, production of the documents could not be rejected, particularly when the

documents are useful for deciding controversy to come to the just and proper conclusion to do justice to the parties. The lower Court erred in dismissing the petition. Therefore, set aside the order of the trial Court and allow the petition. The trial Court is directed to receive the document adjudicate the case as early.

7. With the above direction, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is also closed. No costs.

Index: Yes/No
Speaking Order: Yes/No
vsn

08.12.2020

To
The Sub Court, Rasipuram.

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V.SIVAGNANAM.J,

vsn



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