

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06..02..2020
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.4090 of 2019
and
C.M.P.No.26781 of 2019 & C.M.P.No.759 of 2020

R.Magesh
Prop. GPR Agency,
No.9, Gandhi Road,
Jyothi Nagar,
Arakkonam,
Vellore District.

... Petitioner/Petitioner/Plaintiff

-Versus-

- 1.M/s.Vel and Co.,
Rep. by its Partners,
C.K.Velu and J.Gajendran
No.95/1, East 2nd Cross Street,
Ganesh Nagar, Arakkonam,
Vellore District.
- 2.C.K.Velu
- 3.Gajendran
- 4.Jai Krishna
- 5.Mrs.V.Mageswari
- 6.Mrs.Chegamma
- 7.Union of India,
Owning Southern Railway,
Rep. by its Divisional Railway Manager,
Works Branch, Madras Division,
Southern Railway, Park Town,
Chennai 600003.
- 8.The Divisional Engineer,
West/MAS,
Southern Railway,
Pak Town, Chennai 600 003.

9.The Senior Divisional Engineer,
CEN/MAS,
Southern Railway,
Park Town,
Chennai 600003.

10.The Financial Advisor and
Chief Accounts Officer,
Southern Railway,
Park Town, Chennai 600 003.

... Respondents/Respondents/Defendants

Petition filed under Article 227 of the Constitution of India, praying to set aside the docket order dated 25.10.2019 made in I.A.No.Nil of 2019 in O.S.No.82 of 2019 by the learned II Additional District Judge, Ranipet, Vellore District.

For Petitioner : Mr.Jeremiah for
M/s Jeremiah Gregory John
For Respondent(s) : Mr.Om Prakash, Senior
Counsel for Mr.M.Venkata
Krishnan for R2
Mrs.R.Poornima for RR 3 and
4

ORDER

This civil revision petition has been filed against the order passed by the learned II Additional District Judge, Ranipet, returning the application filed by the petitioner under Section 151 of CPC seeking to direct the garnishees, who are respondents 7 to 10 herein to remit all payments payable to the respondents 1 to 3 in respect of the contract mentioned in the schedule appended to the application to the credit of the suit pending disposal of the application.

2. The petitioner is the plaintiff in the suit in O.S.NO.82 of 2019 which has been filed for recovery of money. Pending suit, the application under revision has been filed on the ground that the 2nd respondent is having a subsisting contract with the respondents 7 to 10 and therefore, the petitioner sought to direct respondents 7 to 10 to remit the amounts payable to the respondents 1 to 3 to the credit of the suit.

3. The above said application was returned by the court below questioning the maintainability. The grievance of the petitioner is that though the petitioner had re-presented the same with endorsement explaining as to how the application is maintainable, the court below had once again returned the application without passing any order thereon. Therefore, the learned counsel for the petitioner submitted that the court below may be directed to number the application and proceed with the same in accordance with law.

4. The learned counsel appearing for the contesting respondents herein seriously objected for giving a direction to the court below to decide the question of maintainability of the application filed under Section 151 of CPC which has been filed seeking to issue a pro-order as against the garnishees.

5. Considering the facts and circumstances of the case and on considering the submissions made on either side, without going into the merits of the case, this court is inclined to dispose of the revision petition with a direction to the court below. The learned II Additional District Judge, Ranipet, is directed to number the application and consider the same on merits, including the question of maintainability, in accordance with law after hearing both parties and pass appropriate orders thereon within a period of two weeks from the date of receipt of a copy of this order. This civil revision petition is disposed of accordingly with the above directions and consequently the interim direction given by this Court in C.M.P.No.26781 of 2019 shall stand vacated. No costs. Consequently, both the CMPs are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

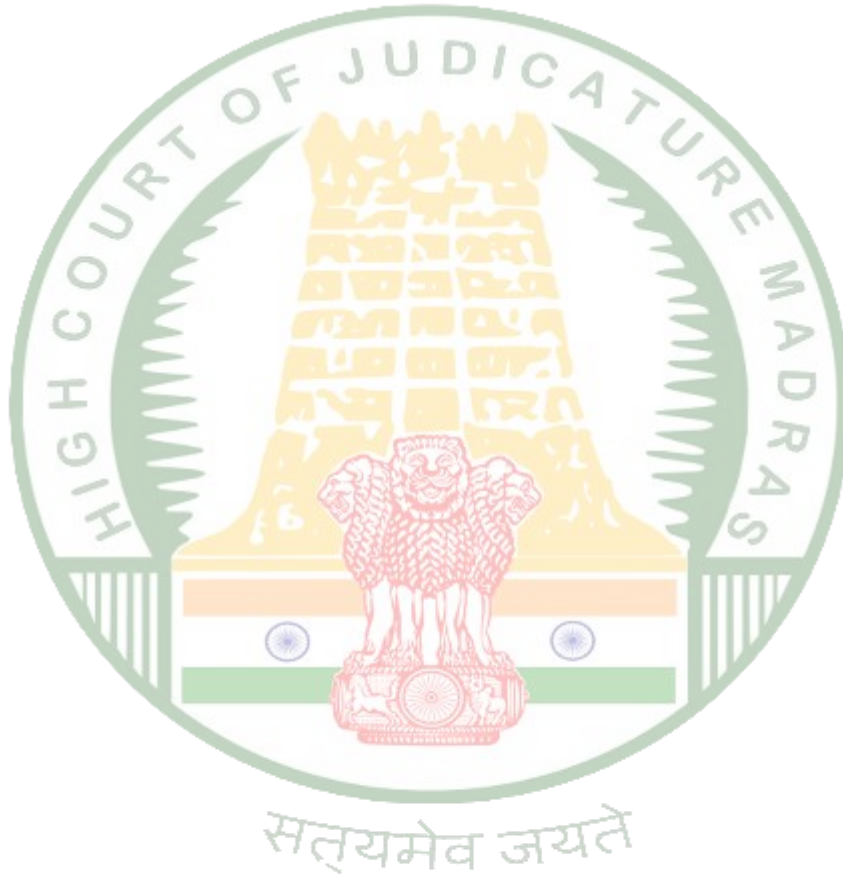
1.The II Additional District Judge, Ranipet, Vellore District.

+1cc to Mr.Jeremiah, Advocate sr.9713

+1cc to Mr.M.Venkatakrishnan, Advocate sr.9759

C.R.P.No.4090 of 2019

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