



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

C.R.P (MD) No.918 of 2020

&CMP (MD) No.6006 of 2020

WEB COPY

Chinnasamy

...Petitioner/Petitioner/Defendant

Vs.

Jeyalakshmi

...Respondent/Respondent/Plaintiff

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order passed by the learned IV Additional Sub Judge, Tiruchirappalli in Old I.A.No.1/2019, New I.A.No.1/2020 in O.S.No.432 of 2018, dated 11-02-2020.

For Petitioner : Mr.S.Muthukrishnan

O R D E R

The defendant in O.S.No.432 of 2018 has come forward with this revision petition challenging an order passed in I.A.No.1/2020, which he filed for production of certain documents under Order 11 Rule 12 CPC.

2.The bare facts are;

- The respondent herein has laid O.S.No.432 of 2018 for recovery of mortgaged money of Rs.2,00,000/- with interest.
- In paragraph 3 of the written statement the revision petitioner/defendant has pleaded that he has repaid Rs.1,00,000/- with interest.
- The trial of the case has commenced and even during cross-examination of the plaintiff(P.W.1), the revision petitioner/defendant struck to his stand in the written statement. However, during his cross-examination as D.W.1, he has introduced a case that he paid Rs.80,000 towards interest and another Rs.20,000 towards principal and in all, has paid Rs.1,00,000/-. He has also examined two other witnesses as D.W.2 and D.W.3 and their cross examination are also fully completed.
- It is in these circumstances, the defendant has come forward with I.A.No.1 of 2020 for production of a document dated 20.09.2016.
- It is averred in the affidavit, that even in the cross examination of plaintiff as P.W.1 a suggestion was made to that effect which the plaintiff has denied.

3.After considering the materials before it, the learned subordinate Judge dismissed this application.



4. In its order the learned Sub Judge has also pointed out the discrepancy in the original stance of the revision petitioner/defendant as taken in the written statement, and during trial, and the change of his stance now.

5. The trial of the case is completed, if not substantially completed. The state of the litigation is such that if the revision petitioner is able to establish that there indeed was a document of nature and description that he contends exists and is available which the respondent/plaintiff has, he can always require the Court to draw adverse inference.

6. This Court does not find any merit in this petition and the same is dismissed and the order passed by the learned IV Additional Sub Judge, Tiruchirappalli in Old I.A.No.1/2019, New I.A.No.1/2020 in O.S.No.432 of 2018, dated 11-02-2020 is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar (CS)

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To

1. The IV Additional Sub Judge,
Tiruchirappalli.

2. The V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

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AP (29/12/2020) 2P 4C