



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 22.01.2020

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD)No.2175 of 2019

1.S.Manikandan

2.M.Veeralakshmi

... Petitioners/Petitioners/
Defendants 3 & 4

Vs.

Mayilvel

... Respondent/Respondent/
Plaintiffs

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 17.11.2017 made in I.A.No.07 of 2016 in O.S.No.148 of 2014 on the file of the learned District Munsif Cum Chief Judicial Magistrate, Manamadurai, and now the above suit transferred to the learned District Munsif, Thiruppuvanam, in new number O.S.No.26 of 2019.

For Petitioners : Mr.K.K.Mahesh Raja

For Respondent : Mr.V.Ramakrishnan

ORDER

This petition has been filed to quash the order dated 17.11.2017 made in I.A.No.07 of 2016 in O.S.No.148 of 2014 on the file of the learned District Munsif Cum Chief Judicial Magistrate, Manamadurai and now the above suit was transferred to the learned District Munsif, Thiruppuvanam and the same was taken on file in O.S.No.26 of 2019.

2.The petitioners herein are the defendants 3 and 4 and the respondent herein is the plaintiff in the suit.

3.The respondent has filed a suit in O.S.No.148 of 2014 for a prayer of recovery of possession and for a prayer of arrears of rent. A memo was alleged to have been filed on the side of the defendants 3 and 4 before the Court below as if the defendants 3 and 4 submit to decree. An order was passed on that memo. The defendants 3 and 4 filed a petition in I.A.No.7 of 2016 to cancel the order passed in the memo and to permit the defendants 3 and 4 to contest



the suit. That petition was dismissed by the Trial Court. Against which the petitioners preferred this revision.

4. Brief substance of the petition is as follows:-

Petitioners are husband and wife. The suit was filed against the petitioners for recovery of possession. The persons, who run business in the suit premises, viz., Ramakrishnan, Subbaiah and Saravanan were telling that the plaintiff was showing some documents, as if the petitioners submit to decree and the plaintiff is insisting upon those persons to vacate the premises. As the advocate for the petitioners did not help to the petitioners, with the help of another advocate they verified the Court records and came to know that a memo was filed, as if signed by the petitioners. The petitioners never signed any such memo. When the case was handed over to the advocate, he obtained the signature of the petitioners in some blank papers and he used that the blank papers and prepared this memo, without the consent of the petitioners. Regarding this, a notice was sent to the advocate on 25.12.2015. Hence, the order dated 16.04.2015 is to be set aside.

5. The brief substance of the counter is as follows:-

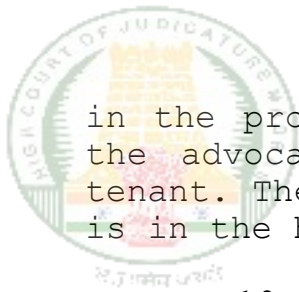
The advocate, who appeared for defendants 3 and 4 is not known to the plaintiff. The defendants 3 and 4 submitted to decree and they filed a memo to that effect. The suit is at the stage of cross examination of defence side witness. Only to drag on the proceedings, this petition was filed by the petitioners.

6. After hearing both sides, the Lower Court, dismissed the petition. Against which, the petitioners preferred this revision.

7. On the side of the petitioners it is stated that since the signed memo was filed without the consent of the petitioners, the decree based on that memo is not valid. The first defendant is contesting the suit. The advocate filed a memo and got a decree without the knowledge of the defendants 3 and 4. The advocate for the defendants 3 and 4 used the blank papers signed by the defendants, which were handed over to the advocate at the time of filing of the written statement.

8. On the side of the respondent, it is stated that the defendants 3 and 4 filed a memo submitting to decree. After filing the memo, this petition was filed by the petitioner. The memo was signed on 16.04.2015. But the petition to cancel the memo was filed before the Trial Court only on 12.01.2016. Until now, the petitioners did not take any steps against the concerned advocate.

9. It is seen that the petitioners admitted their signature in the memo. Further, vakalath in the name of the counsel is valid. <https://hccourts.courts.gov.in/hccourts> reveals that the memo was signed by the defendants



in the proper place. No steps was taken by the petitioner against the advocate. The stand of the petitioners is only that of a tenant. The petitioners admitted that the possession of the premises is in the hands of some third persons.

10. In the above circumstances, there is nothing sufficient enough to interfere in the orders of the Trial Court. Hence, the Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss

To

1. The District Munsif Cum Chief Judicial Magistrate,
Manamadurai.

2. The District Munsif,
Thiruppuvanam.

3. The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.V.RAMAKRISHNAN, Advocate (SR-2517[F] dated 23/01/2020)

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22.01.2020

VB(24.02.2020) 3P 6C