

C.R.P.(PD) No.571 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.571 of 2021

M. Yuvaraj

... Petitioner

Vs.

Adishesha Rao

... Respondent

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying for to set aside the order dated 23.12.2020 passed in Copy Application bearing G.No.1241 of 2020 in O.S. No.85 of 2018 on the file of the Principal Sub-ordinate Judge, Ponneri and direct the Principal Sub-ordinate Judge, Ponneri to issue the certified copy of the plaint and entire docket order as mentioned in the copy application bearing G.No.1241 of 2020.

For Petitioner ... Mr. S. Veeraraghavan

For Respondent ... No Appearance

ORDER

This Civil Revision Petition under Article 227 of the Constitution of India praying to set aside the order dated 23.12.2020 passed in Copy Application bearing G.No.1241 of 2020 in O.S. No.85 of 2018 on the file of the Principal Sub-ordinate Judge, Ponneri and direct the Principal Sub-ordinate Judge, Ponneri to issue the certified copy of the plaint and entire docket order as mentioned in the copy application bearing G.No.1241 of 2020.

2. The case of the petitioner is that the petitioner is the plaintiff who filed the aforesaid suit for recovery under Order XXXVII Rule 1 and 2 of C.P.C. In the said suit based on the memo filed by the respondent/defendant, the said suit was converted into an ordinary suit under Order VII Rule 1 C.P.C. Against that, the petitioner herein preferred Civil Revision Petition in C.R.P.No.2211 of 2020 before this Court. In the said Civil Revision Petition, this Court orally directed the petitioner to obtain the docket order and to file the same in the aforesaid CRP. Hence, the petitioner filed the copy application for the certified

copy for the plaint and docket order in the above said suit vide G.No.1241 of 2020 on 17.12.2020 and the said copy application was returned by the Sheristadar of the Court below stating that as per CRPC Rules, Judge's minutes notes not entitled. Hence, this copy application returned by order dated 23.12.2020. Against which the petitioner has preferred this Civil Revision Petition Under Article 227 of the Constitution of India to set aside the same.

3.The learned counsel appearing for the petitioner submitted that the order passed by the Sheristadar of the said Court by returning the copy application in G.No.1241 of 2020 dated 23.12.2020 is against law and procedures contemplated in Civil Rules of Practice.

4.He further submitted that the petitioner has filed the copy application only for plaint and its docket order and never sought a judge's minutes. Further, the Sheristadar of the Court below without perusing the description of the application for certified copy, straight away rejected the said copy application. The Trial Court failed to peruse the application for certified copy and after perusing the same it has to be returned by the

Court below with proper speaking order. But the impugned order was not signed by the Court below.

5.He further submitted that the fact now the entire Court proceedings advent of computer session and all the docket orders are being uploaded in the official website of the Court. Moreover, 'A' diary are not kept in the safe custody and it is always open to peruse in the Court hall. Inspite of the same, the learned Trial Judge returned the copy application is not maintainable in accordance with law and is liable to be set aside.

6.He further submitted that the trial Court has not differentiated property what is 'A' diary extract and what is Judge's minutes. The petitioner herein never seeks Judge's minutes. He further submitted that the Trial Court has not differentiated properly what is 'A' diary extract and what is Judge's minutes. The petitioner herein never seeks Judge's minutes.

7.He further submitted that as per Section 187 and 188 of the Civil Rules of Practice, the parties are entitled to get a certified copy of the Judgment and decree or any order from the Court. As per the impugned order, the Trial Court curtails the rights of the petitioner. Hence, on this ground alone the impugned order is liable to be set aside.

8.Heard, the learned counsel for the petitioner as well as perused the material available on record.

9.On going through the typed set of papers, it is seen that the petitioner/plaintiff filed the suit seeking to direct the defendant to pay a sum of Rs.9,67,298/- together with interest at 24% from the date of plaint till the date of decree and also to direct the defendant to pay the future interest till the date of realisation. Apart from that, the petitioner has not filed anything to show what was the interlocutory application filed before the Court below and for what is the Civil Revision Petition filed before this Court. Anything has been stated in the petition but simply stating that this Court orally directed him to obtain the docket order and file the same before this Court. In the column of description of documents of

copy Application for certified copies under Rule 43 filed before the Court below, it has been mentioned that 'certified copy of the plaint and docket order passed in the above case (with Rs.10/ Court fee)'. Further, in the column of said copy application, namely, order if any under which application of made of the copy application, it has been mentioned that 'reference'. The Sheristadar of the Court below returned the same stating that as per CRPC Rules, Judge's minute notes not entitled. Hence, this CA returned. If the petitioner is entitled for 'A' diary extract, it can be obtained by filing copy application. However, the petitioner herein has not stated in the copy application properly whether it is a docket order in the said plaint or in the memo filed by the defendant. Further, without taking the matter before the Court below for clarification, the petitioner herein straight away come to this Court by way of Civil Revision Petition, which is the abuse of the process of law. If the petitioner is aggrieved, he should have approached the Court below by clarifying the facts regarding what are the documents he required from the Court below whether Judge's minutes or docket order. Failing to do so, the petitioner herein straight away approached this Court by way of the present Civil Revision Petition under Article 227 of the Constitution of India and the

same is to be rejected. Hence, the present Civil Revision Petition is dismissed. It is left open to the petitioner to work out his remedies before the Court below.

10. In the result, these Civil Revision petition is dismissed. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

19.03.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

To:

The Principal Sub-ordinate Judge, Ponneri

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V.BHAVANI SUBBAROYAN, J.,

lbm

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