



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	14.12.2021
PRONOUNCED ON	17.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

CIVIL REVISION PETITION (PD).NO.3880 OF 2016

Augustin

... Petitioner/Defendant

vs.

E.V.Rajasekaran

... Respondent/Plaintiff

Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 04.11.2016 made in I.A.No.658(A) of 2016 in O.S.No.73 of 2008 on the file of the Subordinate Judge's Court at Dharmapuri.

For Petitioner : Mr.P.Valliyappan

For Respondent : No Appearance

ORDER

The Civil Revision Petition No.3880 of 2016 is filed challenging the order dated 04.11.2016 passed in I.A.No.658(A) of 2016 in O.S.No.73 of 2008 on the file of the Subordinate Judge's Court, Dharmapuri.

2. The facts of the case in a nutshell:

The Petitioner is the Defendant in the Suit. The Plaintiff has filed this Suit O.S.No.73 of 2008 for recovery of sum of Rs.1,36,000/- (One Lakh Thirty Six Thousand Only) with interest and the cost of the Suit from the Defendant. The Petition I.A.No.658(A) of 2016 in O.S.No.73 of 2008 was filed by the Respondent/Plaintiff under Rule 75 of the Civil Rules of Practice, to call for the documents from the Tamilnadu Mercantile Bank, Dharmapuri branch, to prove the case and the same was allowed by the Trial Court. Hence, this Civil Revision Petition is filed.



3. Learned counsel for the Petitioner Submitted that, the documents mentioned in the petition is no way connected or relevant to the present case and there was no application for conducting joint trial and the Suit filed by the Respondent/Plaintiff is totally unrelated with the other Suits.

4. The learned counsel for the Petitioner further contended that the learned Judge has not assigned any valid reason for allowing this application and only stated that no prejudice will be caused to the Petitioner/Defendant. The Suit has been filed by fabricating records and there is no reason for allowing the application to file under Rule 75 of the Civil Rules of Practice and that the Respondent/Plaintiff cannot be permitted to seek for unrelated records from the Tamilnadu Mercantile Bank.

5. On perusal of the materials available on record, it is crystal clear and evident that the Interlocutory Application filed by the Respondent/Plaintiff in I.A.No.658(A) of 2016 under Rule 75 of Civil Rules of Practice to call for the records from the Tamilnadu Mercantile Bank, Dharmapuri is to delay the proceedings in the trial court.

6. It is also to be noted that suit is in the trial stage. At this juncture, the Respondent/Defendant has filed I.A.No.658 (A) of 2016 in O.S.No.73 of 2008 with an ulterior motive to protract the proceedings. Further, it is seen from the affidavit filed in support of I.A.No.658(A) of 2016 that the petitioner/defendant has no proper, genuine, sufficient, or valid reason for filing the said Application. I rely on the Judgment delivered by this Court in the case of Indian Auto Gas Company Limited Vs. K.Radha Lakshmi & another reported in 2013 (4) CTC 684, the relevant portion of which is extracted hereinbelow:

"6. the petition filed by the petitioner/defendant at the fag end of the trial is a clear abuse of process of Court and that has been filed only to drag on the proceedings and the petitioner/defendant could have filed those documents by getting certified copies from the officials and hence, the Court below has rightly dismissed the Applications."

The aforesaid decision of this Court is squarely applicable to the case on hand.

7. The learned Judge has not assigned any valid reason for allowing the application filed by the Respondent/Plaintiff and



the learned Judge ought to have dismissed the application since the respondent has not filed any petition for joint trial. The only reason given is that no prejudice will be caused to the Petitioner/Defendant is not a ground to allow the application moreover, the Respondent/Plaintiff has sought for irrelevant/unrelated documents.

8. Considering the facts and circumstances of the case and in view of the order passed by this Court in the case of Indian Auto Gas Company Limited Vs. K.Radha Lakshmi & another reported in 2013 (4) CTC 684, the order passed by the learned Subordinate Judge's Court at Dharmapuri is liable to be set aside.

9. In the result, the order passed by the learned Subordinate Judge, Dharmapuri in I.A.No.658(A) of 2016 in O.S.No.73 of 2008 is hereby set aside. Accordingly this Civil Revision Petition stands allowed. No Costs. Consequently, connected C.M.P.No.19747 of 2016 is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vm

To:

The Subordinate Judge,
Dharmapuri.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras - 104.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.68384

C.R.P. (PD) .No.3880 of 2016

SV(CO)
RLP(03/01/2022)