



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM :

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.165 of 2021

and

CMP(MD)No.1011 of 2021

Xavier

... Petitioner

vs.

Palanimuthu

... Respondent

Petition filed under Article 227 of Constitution of India, against the order dated 06.01.2021 passed by the Sub Court, Aranthangi, in I.A.No.273 of 2020 in O.S.No.90 of 2018.

For Petitioner : Mr.T.Lenin Kumar

O R D E R

This Civil Revision Petition has been filed against the order dated 06.01.2021 passed by the Sub Court, Aranthangi, in I.A.No.273 of 2020 in O.S.No.90 of 2018.

2.The above suit has been filed by the respondent/plaintiff for the relief of specific performance. In the suit, the revision petitioner/defendant has filed I.A.No.273 of 2020 to include one Mani in the list of witness stating that he is a necessary witness to prove his case and he was left out while producing the list of witnesses. The respondent/plaintiff would specifically plead that without any reason as to why the said Mani has to be included as a witness, the petitioner has filed the above application and such an application has been filed only to prolong the case. The trial Court after hearing both sides dismissed the said application, against which, the present revision petition has been filed by the petitioner/defendant.

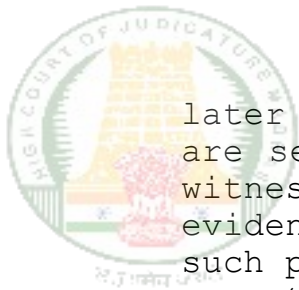
3.The learned counsel for the petitioner would state that without considering that the proposed witness Mani, who is a relative of the petitioner and who knows about the money transaction which had taken place between the petitioner and the respondent, the learned Judge has dismissed the above I.A and therefore, he would pray to set aside the order of the Court below to allow the revision petition.

4.Heard the learned counsel for the petitioner. In view of the order going to be passed, notice to the respondent is not necessary.

5.Order 16 Rule 1(1) and (3) reads as follows:-

'1.List of witnesses and summons to witnesses.---(1)

<https://hcservices.courts.gov.in/hcservices/> On or before such date as the Court may appoint, and not



later than fifteen days after the date on which the issues are settled, the parties shall present in Court a list of witnesses whom they propose to call either to give evidence or to produce documents and obtain summonses to such persons for their attendance in Court.

(3) The Court may, for reasons to be recorded, permit a party to call, whether by summoning through Court or otherwise, any witness, other than those whose names appear in the list referred to in sub-rule (1), if such party shows sufficient cause for the omission to mention the name of such witness in the said list.''

6.As per Order 16 Rule 1(1) of the Civil Procedure Code, within 15 days of framing of the issues, the parties have to file the list of witnesses, but in the present case, the list of witnesses was not filed within 15 days and as per Order 16 Rule 1(3) of the Civil Procedure Code, the Court may for reasons to be recorded, permit the petitioner to call any witness whose name does not find place in the list of witnesses, by summoning through Court, if sufficient cause for the omission is stated by the petitioner. In the present case, no reason has been stated by the petitioner for not including the proposed witness in the list of witnesses and therefore the learned Judge has rightly dismissed the application, where I do not find any infirmity.

7.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

bala/gns

To

1)The Sub Judge,
Aranthangi.

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

C.R.P(MD)No.165 of 2021

DATED : 09.02.2021

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SVN (CO)

KK(29.03.2021) 2P 4C

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