



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2021

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.1131 of 2020
and
C.M.P(MD) .No.7253 of 2020

NeelajanKadhass

... Petitioner/Petitioner/Plaintiff

-Vs-

1. M.David
2. S.J.K.Metha Auto Finance,
Rep.by its Prop, Jitendra Kumar Mehta
3. Kumaresan
4. Hemavathi
5. The Regional Transport Officer,
Nagercoil, Kanyakumari District.
6. The Motor Vehicle Inspector,
Marthandam, Kanyakumari District.
7. The Regional Transport Officer,
Tiruvallur, Chennai.
8. The Motor Vehicle Inspector,
Poonamalle, Chennai.
9. The Secretary,
Transport Department,
Fort St.George, Chennai-9. ...Respondents 1 to 9
/Respondents 1 to 9/ Defendants 1 to 9

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to Fair and Decreetal order passed by Subordinate Judge, Eraniel in I.A.No.3 of 2019 in O.S.No.66 of 2018 dated 03.01.2020 and set aside the same.

For Petitioner : Mr.K.P.Narayanakumar

O R D E R

This Civil Revision Petition has been filed to call for the records relating to Fair and Decreetal order made in I.A.No.3 of 2019 in O.S.No.66 of 2018, dated 03.01.2020, on the file of the learned Subordinate Judge, Eraniel and set aside the same.

2. The learned counsel for the revision petitioner would submit that the revision petitioner has filed a money suit in O.S.No.237 of

<https://hcservices.ecourts.gov.in/hcservices/>



2010 on the file of the Subordinate Court, Padmanabhapuram, seeking following directions;

(i) A direction to the defendants' No.1 to 8 to pay balance sale consideration of Rs.3,00,000/-; to pay compensation of Rs.3,24,000/- to the revision petitioner/plaintiff from 12.11.2006 to 11.11.2009 along with the future loss of Rs.300/- per day till realization of amount;

(ii) To declare the fraudulent transfer of ownership and grant of permit of plaint schedule vehicle in favour of the 4th defendant by defendants No.5,7 and 8 as null and void;

(iii) To direct the 2nd defendant to return the four unfilled bond papers, ten blank papers affixing revenue stamp, ten blank forms affixing revenue stamp, and ninety unfilled forms, totalling 119 numbers and two signed blank cheque leaves and partition deed, related to finance;

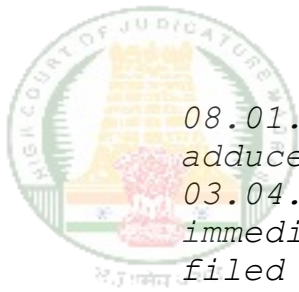
(iv) To grant and order of injunction restraining the defendants' 1 to 4 and their men using the plaint schedule vehicle bearing Reg.No.TN-74-C-2125, along with the costs of the suits.

3. The learned Counsel for the revision petitioner/plaintiff further submitted that the revision petitioner had filed an interlocutory application in I.A.No.3 of 2019 in O.S.No.237 of 2010 renumbered as O.S.No.66 of 2018, on the file of the Subordinate Judge (FAC), Eraniel, under Sections 45 and 73 of the Indian Evidence Act, for getting expert opinion for comparing his admitted signatures in Exhibits and the same was dismissed on 03.01.2020. Aggrieved over the same, the present Civil Revision Petition has been filed.

4. Heard the learned Counsel for the petitioner and perused the materials placed before this Court.

5. The present appeal has been filed against the order passed by the learned Judge dismissing the application seeking for expert opinion under Sections 45 and 73 of the Indian Evidence Act, for comparing the petitioner's admitted signatures in Exhibits. The learned Judge has clearly narrated the manner in which the protracted the proceedings in paragraph No.2 of his order and the same is extracted hereunder:-

"On perusal of the court diary it is seen that the main suit is of the year 2010, in which issues were framed on 23.08.2011 and it was posted for trial from 27.10.2011. After 3 years, on 13.03.2014 the plaintiff P.W.1 who is the present petitioner was examined on 13.03.2014 and it was continuously posted for marking of documents by him till



08.01.2018, that was for nearly 4 years. The defendant side adduced their evidence within a month and 3 days and from 03.04.2018 the suit was posted for arguments and immediately on 17.04.2018, I.As.316/2018 and 317/2018 were filed which were allowed and amendment was done on 24.04.2018. When the suit is posted for arguments again from 02.08.2018 the bundle was transferred this Court and the case was posted for hearing the arguments from 24.08.2018. For 8 hearings, the matter was posted for arguments till 06.02.2018. After 5 months on 09.02.2019 a re-open petition was filed by the petitioner, who took time for making his submissions till 12.12.2019 wherein he has taken 10 months time for enquiry.

Admittedly, the petitioner/plaintiff took more than 6 years for adducing his evidence and on the other hand the defendant took just one month time for the evidence. At the argument stage on 03.04.2018 the petitioner/plaintiff filed an amendment petition but at this stage itself he did not raise any prayer for expert opinion."

6. On a perusal of the above portion of the order of the lower Court, it is seen that the petitioner/plaintiff has filed an amendment petition during the argument stage and even at that stage, he did not raise any prayer for expert opinion.

7. This Court is of the considered view that, at this stage, this Court is not inclined to allow the present revision petition, since, the petitioner has already prolonged the trial proceedings for more than nine years and the present petition has been filed only for protracting the proceedings of the lower Court. In the said circumstances, the Court below has rightly dismissed the interlocutory application and hence, the same does not require any interference.

8. Accordingly, the present Civil Revision Petition stands dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar



To

1. The Subordinate Judge,
Eraniel.

2. The Section Officer, VR Section, **(2 Copies)**
Madurai Bench of Madras High Court, Madurai.

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04.01.2021

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