



C.R.P. No.1755 of 2020 & CMP No.10859 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP No.1755 of 2020

and

CMP No.10859 of 2020

M. Sowntharraj

... Petitioner

Vs.

1. The General Manager
SIDCO Head Office,
Thiru-Vi-ka Street,
Guindy, Chennai 32.

2. The Branch Manager
Small Work Industries,
SIDCO Work Campus,
Kurichi, Coimbatore

Respondents

...

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal orders dated 11.03.2020 made in I.A.No.2 of 2020 in O.S. No. 35 of 2017 on the file of the Subordinate Judge, Mettupalayam.

For Petitioner : Mr. A. Sri Ram



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C.R.P. No.1755 of 2020 & CMP No.10859 of 2020

For R2 : Mr. M.J.Jaseem Mohamed

ORDER

This revision petition is filed against the fair and decretal orders dated 11.03.2020 passed by the learned Subordinate Judge, Mettupalayam, in I.A.No.2 of 2020 in O.S. No. 35 of 2017.

2. The revision petitioner is the plaintiff in O.S. No.35/2017 on the file of the Subordinate Court, Mettupalayam. He filed the suit for specific performance of the contract. The defendants filed an Interlocutory Application under Order VII Rule 11 CPC praying to reject the plaint. In the meanwhile, the revision petitioner/plaintiff filed an Application in I.A. No.2/2020 under Rule 75 and Section 151 CPC to send for the documents in O.S. No.653/1991 from the Subordinate Court, Coimbatore. After hearing both sides, the learned Subordinate Judge, Mettupalayam, dismissed the application vide her orders dated 11.03.2020 on the following grounds.

i. The petitioner already filed an application in I.A. No.1/2019 seeking



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C.R.P. No.1755 of 2020 & CMP No.10859 of 2020

for the very same relief and that the said petition was dismissed on merits.

- ii. The petitioner can file copy application before the concerned court for getting the documents and if those documents are not given to him he can only proceed further in accordance with law and he cannot file this application to send for the documents from a different Court.

3. Heard Mr. A. Sri Ram, learned counsel appearing for the revision petitioner and Mr. M.J.Jaseem Mohamed, learned counsel appearing for the 2nd respondent.

4. It is seen from the records that the plaintiff had sought for the documents pertaining to O.S. No.653/1991 filed by him before the Subordinate Court, Coimbatore. The said suit was for specific performance of the contract and the same was dismissed for default and thereafter no steps were taken by the plaintiff to restore the same. In the



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affidavit filed along with the application in I.A. No.2/2020, the revision petitioner had contended that he filed a petition in I.A. No.99/1993 to restore the suit in O.S. No.653/1991 and that the said petition was not posted for further hearing and despite a petition filed by him under Right to Information Act, no reply was given to him by the District Judge, Coimbatore.

5. It is pertinent to mention that no document was filed by the revision petitioner to substantiate his contention that he filed I.A. No.99/1993 to restore the suit in O.S. No.653/1991 which was dismissed for default and that he filed a petition under the Right to Information Act to know the status of that application. In any event the suit in O.S. No.653/1991 was filed by the revision petitioner and he can file a copy of the plaintiff and certified copies of the documents adduced by him before the Subordinate Judge, Coimbatore. In the circumstances, I do not see any reason to interfere with the findings recorded by the trial court and accordingly, the same is dismissed.



C.R.P. No.1755 of 2020 & CMP No.10859 of 2020

6. In the result,

- i. the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is dismissed.
- ii. The fair and decretal orders dated 11.03.2020 passed in I.A.No.2 of 2020 in O.S. No. 35 of 2017 by the Subordinate Judge, Mettupalayam, is upheld.
- iii. Since the suit is of the year 2017, the learned Subordinate Judge, Mettupalayam, is directed to proceed with the trial and dispose of the main suit in O.S. No.35/2017 as expeditiously as possible in accordance with law.

27.09.2022

Index : Yes/No

Internet : Yes/No

Speaking/non speaking

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C.R.P. No.1755 of 2020 & CMP No.10859 of 2020

R.HEMALATHA, J.,
bga

To

1. The Subordinate Judge, Mettupalayam.
2. The Section Officer, VR Section, High Court, Madras.

CRP No.1755 of 2020
and
CMP No.10859 of 2020



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C.R.P. No.1755 of 2020 & CMP No.10859 of 2020

27 .09.2022