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C.R.P. (PD) No.2659 of 2022
and C.M.P.No.13809 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2659 of 2022
and C.M.P.No.13809 of 2022

E.Ramesh

...

Petitioner /
Defendant

versus

V.Ragupathi

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 15.06.2022 passed in I.A.No.1 of 2022 in O.S.No.21 of 2018 by the learned I Additional District and Sessions Judge, Vellore.

For Petitioner : Mr.N.Sivaprakash

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned I Additional District and Sessions Judge, Vellore, dated 15.06.2022 made in I.A.No.1 of 2022 in O.S.No.21 of 2018.



2. The revision petitioner is the defendant against whom the respondent / plaintiff has filed the suit for recovery of money. During the pendency of the suit, the defendant filed a petition in I.A.No.1 of 2022 to reopen the case which is posted for arguments for the purpose of taking witness summon to one witness by name Manoharan and the said petition was dismissed. Aggrieved over that, the defendant has filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioner submitted that the suit was filed against the defendant for recovery of money basing on a suit promissory note; in the suit promissory note two witnesses by names Ramanjalu and Manoharan have signed as attestors. Despite the plaintiff had chosen to examine one of the witnesses by name Ramanjalu, he did not examine Manoharan. In order to disprove that the suit promissory note was not executed by the defendant he compelled to summon the other witness by name Manoharan and examine him as a witness on his side. The learned trial Judge without considering the necessity to examine Manoharan had chosen to dismiss the petition. The further submission of the learned counsel for the petitioner is that other witness namely Ramanjalu has stated in his



evidence that he did not know Manoharan and hence Manoharan should be brought to Court. Since the revision petitioner / defendant is prejudiced, the order of the learned I Additional District and Sessions Judge, Vellore, should be reversed.

4. The records would show that for the very same reason the revision petitioner had chosen to take summon the witness by name Manoharan. The summons has been sent through Court as well as by post privately. But the said witness did not turn up and thereafter the case has been allowed to reach to the stage of arguments. At this stage once again this petition was filed for the purpose of summoning Manoharan by reopening the case. The learned trial Judge has rightly observed that the revision petitioner has taken the very same efforts earlier and found that he could not serve the summons on Manoharan. Under such circumstances, it is unnecessary to do the same exercise once again by reopening the case. The learned trial Judge has not satisfied with the reasons stated by the petitioner and hence he had chosen to dismiss the petition filed to reopen the case.



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5. It is open to the petitioner to raise all these submissions when he submitting his arguments in the main case. Since the learned trial Judge has rightly dealt the issue and dismissed the petition, I do not find any ground for interference.

6. In view of the above stated reasons, this Civil Revision Petition is dismissed and the order dated 15.06.2022 passed by the learned I Additional District and Sessions Judge, Vellore in I.A.No.1 of 2022 in O.S.No.21 of 2018 is hereby confirmed. Consequently connected Miscellaneous Petition is closed. No costs.

25.08.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

The I Additional District and Sessions Judge, Vellore.



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R.N.MANJULA, J.

sri

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