



WEB COPY



C.R.P.PD.Nos.2616 and 2645 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

**C.R.P.PD.No.2616 of 2021**

**and**

**C.R.P.PD.No.2645 of 2021**

**and**

**C.M.P.No.19575 of 2021**

Mrs.Dilshath Begum

... Petitioner in both C.R.Ps.

Vs.

1.Mrs.Dhanalakshmi

2.A.Subramanian

3.Mr.Raghunathan

4.Mrs.Lalitha

5.Mrs.Shanthi

6.Elumalai

... Respondents in both C.R.Ps.

**COMMON PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the Order and Decretal Order dated 17.08.2021 made in Tr.O.P.Nos.55 and 56 of 2021 on the file of the Principal City Civil Court, Chennai.

For Petitioners : Mr.M.Mohamed Riyaz  
in both C.R.Ps. for Mr.P.Kanarasu

For Respondents : Mr.T.Thangamani  
in both C.R.Ps.



## **COMMON ORDER**

WEB COPY

Since the issue involved in both the revisions are one and the same a common order is being pronounced in both these civil revision petitions.

2. C.R.P.PD.No.2616 of 2021 is filed challenging the order passed in Tr.O.P.No.55 of 2021, withdrawing the suit O.S.No.4744 of 2016 and O.P.No.195 of 2013.

3. C.R.P.PD.No.2645 of 2021 is filed challenging the order in Tr.O.P.No.56 of 2021, withdrawing the suit O.S.No.4745 of 2016 and O.P.No.195 of 2013.

4. The brief facts which are essential for disposing of the above revisions are as follows:

The petitioner in the revision petition had filed O.P.No.195 of 2013 under Section 20-A and D of the Tamil Nadu Money Lenders Act, 1957 and Section 8 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. The petition has been filed against this respondents. The sum



and substance of the petitioner's case in this Original Petition is that the petitioner's husband is employed abroad and he is not taking care of her and her children and that she is eking out her livelihood by doing small tailoring work to meet the education expenses of her child. In view of this impecunious circumstances, she was constrained to borrow money from others. The 1<sup>st</sup> respondent introduced her to the petitioner who was dealing with finance and she had encouraged the petitioner to commence a small scale catering business and had stated that she would extend financial support for the business as well as to meet the educational expenses of her children. The 1<sup>st</sup> respondent had extended a loan of Rs.5,00,000/- and had obtained a signature of the petitioner in various promissory notes, blank cheques etc. The 1<sup>st</sup> respondent also compelled the revision petitioner to hand over the original documents of title. The case of the petitioner is that she had borrowed only a sum of Rs.5,00,000/- and the 1<sup>st</sup> respondent was demanding Kandhuvaddi. Although she had repaid Rs.4,00,000/-, she was also being threatened by the 1<sup>st</sup> respondent to repay the amounts since the interest claimed was exorbitant. The petitioner has filed O.S.No.195 of 2013, for the following reliefs:

*"a. To pass an order of injunction restraining the*



*respondents 1 to 6, their men, servants and agents from in any manner threatening and collecting Kandhu Vatti by engaging goondas and other collection agents.*

*b. To pass an order directing the Respondents to receive a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) from the petitioner in full and final settlement towards of the amount borrowed from the Respondents.*

*c. To pass an order directing the Respondents to deliver all the blank pronotes, property documents belonging to the petitioner and blank cheque No.622660, 622661 and 622662 drawn on Indian Overseas Bank and blank Cheque Nos.000014, 000045, 000048 and 000054 drawn on Karur Vysya Bank collected from the petitioner."*

5. The 1<sup>st</sup> respondent in C.R.P.PD.No.2616 of 2021 had filed a suit in O.S.No.4744 of 2016 on the file of XV Assistant City Civil Court, Chennai for recovery of money of Rs.4,00,000/- with interest at the rate of 12% p.a.

6. The said amount was due under the cheque dated 30.08.2013



WEB COPY

bearing No.00014 of Karur Vysya Bank. Likewise, he had also filed suit in O.S.No.4745 of 2016 to recover the sum of Rs.4,50,000/- with interest at the rate of 12% p.a. Since the subject matter of the suit and the subject matter of the Original Petition under the TNPID Act is one and the same, they had filed an application seeking to transfer the suit O.S.No.4744 of 2016 pending on the file of XV Assistant City Civil Court, Chennai, to be tried along with O.P.No.195 of 2013 pending on the file of IX Assistant City Civil Court, Chennai.

7. The learned District Judge by order dated 17.08.2021 was pleased to dismiss the same, stating that the matter is pending before two different Courts and the application has not been moved at the earlier point of time, but, only after the framing of issues. With this observation, the Tr.O.P.No.55 of 2021 was dismissed. Similarly, an application for transfer was taken in Tr.O.P.No.56 of 2021. Both these Tr.O.Ps. were dismissed by separate orders dated 17.08.2021. Challenging the same, the revision petitioner in both the revisions is before this Court.

8. Mr.M.Mohamed Riaz, the learned counsel for the petitioner would



contend that the subject matter of the suit and the portion of the subject matter of the Original Petitions are overlapping and the suit should await for the decision in the Original Petition, he would therefore, submit that if not a joint trial, the two suits should be heard simultaneously by the learned IX Assistant City Civil Judge, Chennai where O.P.No.195 of 2013 is pending.

9. The primary arguments of the learned counsel for the 2<sup>nd</sup> respondent/plaintiff is that the cause of action for both the petitions for the suit and the O.Ps., are totally different. The O.Ps. proceeds on the criminal side, whereas the suit is before the Civil Court where the civil procedure code is applicable. The O.P., which was filed in the year 2013 is yet to see the light of the day. He finds no infirmity in the order passed in the Transfer Original Petitions.

10. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the records.

11. One of the prayers that is sought for in the original petition is the return of the cheques set out therein on the ground that these cheques have



WEB COPY

been forcibly taken from the petitioner. The subject matter of the suits are also two of these cheques. Therefore, the decision in O.P.No.195 of 2013 would have a direct bearing on the suit O.S.No.4744 of 2016 as well as O.S.No.4745 of 2016. In these circumstances, there is a necessity to have the suits tried by the same Court. However, as pointed out by the learned counsel for the respondents, the proceedings in O.P.No.195 of 2013 is under the Special Act and stand on a different footing. However, the evidences to be let in would be the same. There cannot be a joint trial of both the suits and O.P.No.195 of 2013. However, a simultaneous trial can be ordered. Therefore, in the interest of justice, O.S.No.4744 of 2016 and 4745 of 2016 both pending on the file of the XV Assistant Civil Court, is withdrawn and transferred to the file of IX Assistant City Civil Court, Chennai. The trial in O.P.No.195 of 2013 and O.S.Nos.4744 and 4745 of 2016 shall be done simultaneously.

12. Considering the fact that O.P.No.195 of 2013 is pending for nearly 9 years, a direction is given to the learned IX Assistant Judge, City Civil Court, Chennai to dispose of all the three proceedings within a period of six months from the date of receipt of a copy of this order.



C.R.P.PD.Nos.2616 and 2645 of 2022

WEB COPY

13. With the above direction, both the Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**24.02.2022**

Index : Yes/No  
Speaking Order : Yes / No  
ssn



C.R.P.PD.Nos.2616 and 2645 of 2016

To

WEB COPY

1. The Principal City Civil Court,  
Chennai.
2. The IX Assistant Judge, City Civil Court,  
Chennai.
3. The XV Assistant City Civil Court,  
Chennai.
4. The Section Officer,  
VR Section, Madras High Court,  
Chennai.



WEB COPY



C.R.P.PD.Nos.2616 and 2645 of 2021

**P.T. ASHA, J,**

ssn

**C.R.P.PD.No.2616 of 2021  
and  
C.R.P.PD.No.2645 of 2021  
and  
C.M.P.No.19575 of 2021**

**24.02.2022**