



C.R.P. (PD) No.4398 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

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1.Farmland Rainwater Harvest Systems
1st Floor, Near ABC Bridge
SGS Complex, K.M.Road
Chikkamagaluru – 577 101.

2.Michael Sadananda Baptist
Director
Farmland Rainwater Harvest Systems
1st Floor, Near ABC Bridge
SGS Complex, K.M.Road
Chikkamagaluru – 577 101.

3.Vijayaraj
Director
Farmland Rainwater Harvest Systems
1st Floor, Near ABC Bridge
SGS Complex, K.M.Road
Chikkamagaluru – 577 101.

. . . Petitioners/Petitioners/Defendants

Vs.

M/s BESTEN Engineers &
Consultants India Pvt. Ltd.,
Rep by its Senior Consultant
Mr.Rajagopal

. . . Respondent/Respondent/Plaintiff



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PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 21.08.2017 made in I.A.No.5661 of 2017 in O.S.No.1806 of 2016 on the file of the City Civil Court, Chennai.

For Petitioners : Mr.H.N.Manjunath Prasad
For Respondent : Mr.L.Prabahar

ORDER

This Civil Revision Petition has been filed, to set aside the order dated 21.08.2017 made in I.A.No.5661 of 2017 in O.S.No.1806 of 2016 passed by the learned II Assistant Judge, City Civil Court, Chennai.

2.The revision petitioners herein are the defendants in O.S.No.1806 of 2016 on the file of the City Civil Court, Chennai. The said suit was filed by the respondent/plaintiff for the reliefs of recovery of money and also for permanent injunction against the defendants.

3.By filing detailed written statement, the defendants had denied all the allegations levelled against them. During the pendency of the above said suit,



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the defendants have filed an application in I.A.No.5661 of 2017 under Section 65 A and 65 B of the Indian Evidence Act, r/w Section 151 of Civil Procedure Code. The said application was strongly objected by the plaintiff and also denied the contentions of the defendants by stating that the alleged conversation is not concerned with the plaintiff. He also contend that he was threatened by the defendants. In his entirety, he denied the said conversation.

4.On hearing both sides, the Trial Court held that the petitioners/defendants had not filed any application to take voice test to prove the alleged voice of the respondent/plaintiff. Further, the alleged pen drive conversation was denied by the respondent/plaintiff through counter affidavit. Therefore, the defendants were not permitted to mark the said electronic evidence, at the time of P.W.1 cross examination. Accordingly, the said application was dismissed. Challenging the said finding, the defendants have preferred this Civil Revision Petition.

5.The learned counsel for the petitioners/defendants would submit that



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during the cross examination of the respondent/P.W.1, the petitioners herein filed an application under Sections 65 A & 65 B of the Indian Evidence Act, read with Section 151 of CPC, to take on record 8 GB pen drive and permit the petitioners to play the same and to confront P.W.1, i.e., the respondent herein touching the matter in dispute. Alongwith the petition, the petitioners have also produced 8 GB pen drive of Sandisk company along with a certificate as required under Section 65 B(4) of the Indian Evidence Act. Copy of the said application, which is numbered as 5661 of 2017 in O.S.No.1806 of 2016 along with the objections filed by the respondent were also produced and marked as Annexure C and D. Further, it is submitted that the learned II Assistant Judge, City Civil Court, Chennai, after hearing the arguments on both sides ought to have allowed the application. Admittedly, the pen drive is a document in terms of Section 65 B of the Evidence Act. The electronic record produced for the purpose of inspection of the Court is documentary evidence under Section 3 of the act and the Court below has committed material illegality in refusing to accept the same and to permit the petitioners to confront the same to the respondent herein. Therefore, the learned counsel prayed to allow this Civil



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Revision Petition.

6.The learned counsel for the plaintiff would submit that the well-considered order of the Trial Court needs no interference.

7.Heard both sides and perused the materials available on record.

8.On perusal of records, it is seen that at the time of filing of an application under Sections 65 A & 65 B of the Indian Evidence Act, read with Section 151 of CPC, the defendants have also enclosed the certificate as required under Section 65 B(4) of the Act, but they want to mark the electronic device. However, as per the evidence of P.W.1, he totally denied the conversation held between themselves. The defendants are entitled to produce the electronic device along with a certificate under Section 65 B(4) of the Act. At the time of questioning the P.W.1, through him, the said document has been marked. The learned counsel for the defendants fairly admit that they are ready to take steps to give voice samples, as required under law. Accordingly, he is permitted to take voice test proof and he is entitled to mark the said document



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as electronic device through his witness, subject to proof and relevancy. The learned counsel for the defendants would submit that the matter is transferred to Commercial Court, Egmore, Chennai and re-numbered as O.S.No.968 of 2022. Hence, the Trial Court is directed to initiate the proceedings under Section 45 B of the Act and as per the manner known to law, within a period of two weeks from the date of receipt of a copy of this order, thereafter, after getting a report, the Trial Court is directed to complete the suit within a period of eight months thereafter.

9. With the above direction, this Civil Revision Petition stands disposed of. No costs.

26.10.2022

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
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To

1. The II Assistant Judge, City Civil Court, Chennai.
2. The Section Officer, V.R. Section, High Court of Madras.



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T.V.THAMILSELVI,J.

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