



C.R.P.(PD).No.58 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2022

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

C.R.P.(PD).No.58 of 2020
and C.M.P.No.328 of 2020

V.R.Ganesan

...Petitioner

vs.

1.The Branch Manager,
Tamil Nadu Mercantile Bank,
Kumarapalayam Branch,
Kumarapalayam – Taluk,
Namakkal District.

2.Velusamy

3.The Sub Registrar,
Bhavani, Bhavani Taluk,
Erode District.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Final order dated 23.07.2019 made in I.A.No.3 of 2019 in O.S.No.17 of 2018 on the file of the IV Additional District and Session Judge, Erode District at Bhavani.

For Petitioner : Mr.S.Lakshmanasamy

For Respondents : Mr.V.Chandra Sekaran for R1
R2 - Served – Name printed – No appearance



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Mr.S.P.Karthik for R3
Government Advocate

ORDER

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This Civil Revision Petition has been filed against the Fair and Final order dated 23.07.2019 made in I.A.No.3 of 2019 in O.S.No.17 of 2018 on the file of the learned IV Additional District and Session Judge, Erode District at Bhavani.

2.The case of the petitioner is that the petitioner filed a suit for recovery of money against the second respondent herein based on the cheque issued by him, cheque bearing No.172850 dated 23.03.2019 drawn by Canara Bank, Bhavani Branch, Bhavani for a sum of Rs.10,05,056/-. The case in O.S.No.17 of 2018 is pending on the file of the learned IV Additional District and Sessions Judge, Erode District at Bhavani. During pendency of the suit, the second respondent herein filed a petition to implead them as the second defendant in the suit on the ground that the property which was attached in the above suit was pledged in their bank, the said impleading petition in I.A.No.3 of 2019 was allowed by the Court below by its order dated 23.07.2019. Hence, the present Civil Revision Petition.



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WEB COPY 3.Learned counsel for the petitioner submitted that the order passed by the Court below is against the law and weight of evidence and the Court below ought to have dismissed the impleading petition on the ground that the third party to the cheque transaction is not a necessary party in the suit for recovery of money.

4.Learned counsel for the petitioner further submitted that the Court below failed to note that the impleading petition was filed only to delay the present suit and till date, the property is not auctioned and there is no third party interest on the property which was attached in the present suit. Hence, he prayed this Court to dismiss the present Civil Revision Petition.

5.Heard learned counsel for the petitioner, learned counsel for the first respondent and learned Government Advocate for the third respondent and perused the materials available on record.

6.On perusal of records, it is seen that the cause of action for the suit arose on 25.02.2018 when the second defendant borrowed the



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amount from the plaintiff on issuing the above said cheque on 26.03.2018 when the cheque was returned by the plaintiff's bank and all subsequent dates when the second defendant failed to discharge the suit debt in spite of the repeated demands made by the plaintiff in person.

7.Admittedly, the petitioner filed a suit for recovery of money against the second respondent. The case in O.S.No.17 of 2018 is pending on the file of the learned IV Additional District and Sessions Judge, Erode District at Bhavani. During pendency of the suit, the second respondent herein filed a petition to implead them as the second defendant in the suit on the ground that the property which was attached in the above suit was pledged in their bank, the said impleading petition in I.A.No.3 of 2019 was allowed by the Court below by the order dated 23.07.2019.

8.Considering the facts and circumstance of the case and the submission made by the learned counsel appearing on either side, this Court is of the view that there is no illegality in the said order and this Court is not inclined to interfere with the order dated 23.07.2019 passed by the learned IV Additional District and Session Judge, Erode District at Bhavani.



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9. In view of the above, the order dated 23.07.2019 passed by the learned IV Additional District and Session Judge, Erode District at Bhavani is hereby confirmed and accordingly, the Civil Revision Petition is dismissed. However, the learned Judge is directed to proceed with the suit as expeditiously as possible as the suit is of the year 2018. As the said property has been purchased by an auction purchaser, the Court has to consider that aspect also while disposing of the case. No costs. Consequently, the connected miscellaneous petition is also closed.

15.12.2022

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
pam

To

1. The IV Additional District and Session Judge,
Erode District, Bhavani.
2. The Branch Manager,
Tamil Nadu Mercantile Bank,
Kumarapalayam Branch,
Kumarapalayam – Taluk,
Namakkal District.
3. The Sub Registrar,
Bhavani, Bhavani Taluk,
Erode District.



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V. BHAVANI SUBBAROYAN, J.

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