



CRP(MD)No.1785 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.1785 of 2022
and
CMP(MD)No.7944 of 2022

1.P.Vellaichamy

2.M.K.Palaniappan

: Petitioners

Vs.

A.Selvam

: Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records pertaining to the order dated 18.07.2022 passed by the learned Additional District Judge, Pudukottai, in I.A.No.91 of 2022 in O.S.No.4 of 2022 and set aside the same.

For Petitioners : Mr.C.M.Arumugam

ORDER

This civil revision petition is filed as against the order passed by the learned Additional District Judge, Pudukottai, in I.A.No.91 of 2022 in O.S.No.4 of 2022,



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dated 18.07.2022, in and by which, the interlocutory application which was filed to strike off the plaint in O.S.No.4 of 2022 was dismissed.

2.Learned Counsel for the petitioners submitted that they are the defendants 2 & 3 in the suit in O.S.No.4 of 2022 filed by the respondent / plaintiff. The suit was filed by the plaintiff claiming compensation that his reputation was damaged by the defendants. The plaintiff's son was married to a relative of the defendants in the year 2019 and the bridegroom committed suicide by consuming poison on 12.11.2021. She was admitted in the Government Hospital, Poolankurichi and thereafter, shifted to the Government Medical College Hospital, Ponnamaraavathi. During the treatment, she died due to sudden cardiac arrest. The plaintiff, claiming that the above incident spoiled his reputation, filed the suit seeking compensation, but he has not stated any cause of action to maintain the suit and has also not produced any documents to substantiate his case. Therefore, to strike off the plaint, the petitioners have filed the interlocutory application under Order 7 Rule 11 CPC, however, the trial Court has dismissed the said application.

3.This Court considered the submissions made by the petitioners' Counsel and also perused the available materials.



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4.The respondent / plaintiff has filed the suit in O.S.No.4 of 2022 claiming compensation that his reputation was damaged due to the act of the defendants. The plaintiff's son was married to one Ramalakshmi on 15.07.2019 and on 12.11.2021, the said Ramalakshmi consumed poison. She was immediately taken to the Government Hospital, Poolankurichi and from there, she was referred to the Government Medical College Hospital, Pudukottai. On 13.11.2021, in the hospital, she died due to cardiac arrest. The defendants, who are the relatives of the said Ramalakshmi, said to have created some problem and also circulated certain messages defaming the plaintiff, who is the father-in-law of the deceased Ramalakshmi, attributing certain motive and therefore, the plaintiff has filed the above suit for compensation.

5.The cause of action for filing the suit is the demise of Ramalakshmi on 13.11.2021 at the Government Medical College Hospital, Pudukottai and the subsequent incidents taken place in front of the Hospital on 14.11.2021 and 15.11.2021. There is an averment in the plaint that the defendants 2 & 3 have spread some messages through WhatsApp messaging application to several Advocates and thereby attempted to defame the plaintiff. By referring this



avermment, the petitioners have filed the interlocutory application that those documents were not filed by the plaintiff before the Court along with the plaint.

They have also taken a plea that the suit was filed without any cause of action and in order to circumvent the legal consequences of the death of Ramalakshmi. The trial Court, having considered the rival submissions, has rejected the application holding that the issues have to be decided only during the trial and the suit cannot be struck off *in limine*, and that the plaintiff is also entitled to file those documents at the relevant point of time.

6.The cause of action is a fact or facts which give right for the plaintiff to seek his relief. It is not limited to the actual infringement of the right sued on, but includes all the material facts on which it is founded. Whether the plaintiff discloses the cause of action or not is essentially a question of fact, which the plaintiff must prove during the trial. Here, the plaintiff has stated the cause of action about some incidents that took place in front of the hospital on 14.11.2021 and 15.11.2021. The same can be tested only during the trial.

7.The other ground raised by the petitioners is that the plaintiff, though relied on certain WhatsApp messages, has not produced any materials along with



the plaint. As per Order 7 Rule 14(1) CPC, the plaintiff is expected to produce the documents which he relies upon along with the plaint. But, as per Clause (3), if the documents are not produced along with the plaint, it cannot be received as evidence during the hearing of the case without the leave of the Court. Thus, even though the production of documents is mandatory during the presentation of the plaint, with the leave of the Court, the documents can be produced at later stage also.

8. In this regard, the Hon'ble Supreme Court, in the decision in ***Assam Brook Ltd., v. Borgong Catholic Hospital*** [MANU/GH/0198/2007], has held as follows:-

“7.A bare reading of Order 7 Rule 14(1), it is seen that if the plaintiff sues upon a document in his possession or power, he is required to produce such document in Court at the time of presenting the plaint by delivering a copy thereof to be filed with the plaint. The said provision has been slightly relaxed under Order 7 Rule 14(3) to the extent that the plaintiff may be entitled to produce those documents to utilize the same in evidence with the leave of the Court at the time of hearing of the suit. Thus, it is clear that if leave is granted such a document can be produced and / or used at a later stage also and there is no absolute prohibition to the effect that once the plaintiff has not



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produced such document at the time of presentation of the *plaint*, he is precluded to do so for all time to come (emphasis supplied)."

The WhatsApp messages, if any, can be established during the course of the trial and can also even be produced during the trial with the leave of the Court.

In view of the foregoing discussions, this Court is of the opinion that the application filed by the petitioners under Order 7 Rule 11 to strike off the *plaint* was rightly rejected by the trial Court and the same does not warrant any interference. Accordingly, this civil revision petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Index : Yes / No
Internet : Yes
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To

The Additional District Judge,
Pudukottai.



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B.PUGALENDHI, J.

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