



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Fifth day of January Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CMP(MD) No.10124 of 2021
IN
CRP(MD) No.855 of 2021

R.DARMAPANDI

... PETITIONER/ APPELLANT/
2nd DEFENDANT

Vs

R.THANGAPANDI,
THROUGH HIS POWER AGENT AND
WIFE RAJESWARI

... RESPONDENT/ RESPONDENT/
PLAINTIFF

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to recall the order dated 25.10.2021 the cost of Rs.3,000/- in C.R.P.No.855/2021.

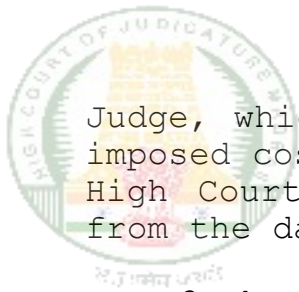
Prayer in CRP(MD) . 855/ 2021 :

To set aside the order passed by the Subordinate Court, Mudukulathur in CMA.No.6/2017 dated 05-10-2020.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.SHANMUGA RAJA, Advocate for the petitioner and of Mr.ABDUL HAMEED, Advocate for Mr.J.BARATHAN, Advocate on behalf of the Respondent, the court made the following order:-

The petitioner has filed a Civil Revision Petition challenging the order passed in C.M.A.No.6 of 2017, dated 05.10.2020, on the file of the Subordinate Court, Mudukulathur, confirming the fair and decretal order passed in I.A.No.55 of 2015 in O.S.No.21 of 2012, dated 10.06.2015 on the file of the District Munsif cum Judicial Magistrate, Kamuti, dismissing the petition filed under Order 9 Rule 13 of the Code of Civil Procedure.

2.This Court, after hearing of both the sides, has passed the order dated 25.10.2021 dismissing the revision. Moreover, since the revision petitioner has made certain remarks against the Appellate



Judge, which are totally irrelevant and unwarranted, this Court has imposed cost of Rs.3,000/- payable to the Madurai Bench of Madras High Court Advocates Welfare Fund within a period of three weeks from the date of receipt of a copy of this order.

3. Thereafter, the petitioner has filed the petition under Section 151 C.P.C. now under consideration, seeking orders to recall the order imposing cost of Rs.3,000/- and in the affidavit filed in support of the said petition, the petitioner has stated that from the bottom of his heart and his fullest conscience, he has not made any allegation against any of the trial Court Judges and that they have not shown any partiality or indifference in dealing and passing orders in the above said case.

4. When the matter was taken up for hearing again on 10.01.2022, considering the submission made by the learned counsel for the petitioner that since the petitioner has not made any allegations against the judicial officers, the order of imposition of cost may be recalled, this Court directed the learned counsel for the petitioner to file an affidavit of the petitioner to that effect that he has not made any allegations in the criminal revision petition against the Appellate Judge and those allegations were only with respect to the other side, as put forth by the learned counsel for the petitioner.

5. When the matter is taken up for hearing today, petitioner's affidavit is filed and whereunder, he has raised a new point which was not raised in the affidavit filed in support of the Civil Miscellaneous Petition that he took the petition along with the grounds to the Professors of two colleges and got it verified, as to whether there was any allegation mentioned about the Judges of any Court, that the two professors of different colleges have also stated that there was no allegation mentioned against the Judge in any place of the petition. When this Court has sought for particulars of the Professors who gave their opinion, the learned counsel for the petitioner would submit that the petitioner alone had approached the Professors and got their opinion and that he is not aware of the said particulars.

6. Though the averments in the memorandum of the revision grounds have been referred in the order dated 25.10.2021, it is also necessary to refer the same and the relevant portion is extracted hereunder:

"The petitioner is made as a puppet and the court hall as the stage, to enact their scene for their convenience. An innocent should not be a prey for the misleading and misconception of the Sub Judge. Hence the order of the C.M.A. is liable to be set aside.

... But setting the exparte order should not be taken as granted for cheating or for anything of that manner. The



petitioner herein has been cheated is to be construed and the dismissal of the appeal liable to be quashed."

7.As already observed by this Court, the petitioner has also stated that he was cheated and that the learned Sub Judge has acted with prejudice. The petitioner, by filing the above affidavit, has been finding fault with this this Court interpreting the memorandum of revision grounds raised in Civil Revision petition. A reading of the revision grounds, by any person of ordinary prudence, without having any legal knowledge, can very well infer that the allegations are unfurled at the judicial officer only. When the petitioner had been raising the grounds challenging the dismissal of C.M.A.No.6 of 2017 by the learned Subordinate Judge, Mudukulathur, there was absolutely no need or necessity to make those allegations mentioned above.

8.Considering the above, this Court is of the view that the petitioner has not made out any case to recall the order of imposition of cost Rs.3,000/- and as such, this Court concludes that this petition is liable to be dismissed.

9.In the result, this Civil Miscellaneous Petition is dismissed.

sd/-
25/01/2022

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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
THE SUBORDINATE JUDGE,
MUDUKULATHUR.

ORDER
IN
CMP (MD) No.10124 of 2021
IN
CRP (MD) No.855 of 2021
Date :25/01/2022

CSM
MS/SBN/SAR-1/09.02.2022/3P.2C