



CRP (MD) No.2143 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.11.2022

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CORAM:

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

CRP (MD) No.2143 of 2022

and

CMP (MD) No.9906 of 2022

1.S.Lakshmanan

2.L.Srinivasan

... Petitioners

Vs

1.K.Gurusamy

2.M.Srinivasan

... Respondents

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, as against the fair and decreetal order dated 15.07.2022 passed in IA.No.3 of 2022 in OS.No.29 of 2012 on the file of the Additional District Munsif cum Judicial Magistrate, Sivagiri.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.S.Ramu

ORDER

The civil revision petition is filed as against the fair and decreetal order dated 15.07.2022 passed in IA.No.3 of 2022 in OS.No.29 of 2012 on the file of the Additional District Munsif cum Judicial Magistrate, Sivagiri.



CRP (MD) No.2143 of 2022

2.The petitioners are the plaintiffs in OS.No.29 of 2022, which is pending on the file of the learned Additional District Munsif cum Judicial Magistrate, Sivagiri. The petitioners/ plaintiffs have filed the above suit for specific performance of agreement dated 25.01.2003. The first respondent / defendant has filed an interlocutory application under Section 151 CrPC to reject the written statement already filed in his name and to permit him to file a new written statement. The said application was allowed by the trial Court by its fair and decreetal order dated 15.07.2022. Aggrieved over the same, the present civil revision petition is filed.

3.The learned Counsel for the petitioner submits that the respondent has filed an interlocutory application in IA.No.2 of 2022 on the ground of cheating and filing forged vakalath and written statement in the main suit by the petitioner and for initiation of criminal prosecution and when serious allegations are made against the petitioners, without considering the same, the trial Court has allowed the present interlocutory application and therefore, by



CRP(MD)No.2143 of 2022

allowing the subsequent petition a stigma is cast upon the petitioner and it will have a bearing on the other interlocutory application.

4.The learned Counsel for the respondents submits that the petitioners / plaintiff have filed the above suit for specific performance of document dated 25.01.2003, in the year 2012 and they have also set up a person as though the first defendant to the suit and filed a forged vakalath and also forged written statement in the said suit. The respondents came to know about the proceedings only after the petitioners have filed the so-called written statement before the writ proceedings before this Court in WA(MD)No.298 of 2021. Thereafter the first respondent has approached the trial Court and filed a memo dated 03.03.2021. After perusing the document, he has also filed an application for initiating criminal prosecution as against the plaintiffs as per Section 195(i) (B) (2) CRPC for the offence under Section 463 and 471 IPC in IA.No.2 of 2021 and it was also entertained by the trial Court and after verifying the records, the trial Court found that there is



CRP(MD)No.2143 of 2022

prima facie material and ordered for a preliminary enquiry by order dated 15.06.2022. Thereafter, the first respondent / defendant has filed the above application in IA.No.3 of 2022 to reject the written statement filed on record in OS.No.29 of 2012 and permit him to file a written statement and that application was allowed by the trial Court considering the earlier orders passed in IA.No.2 of 2021 dated 15.06.2022.

5.Heard the learned Counsel on either side and perused the materials placed on record.

6.The respondents have filed an interlocutory application for rejecting the earlier written statement and to permit him to file a written statement making certain serious allegations of cheating and forgery. The trial Court in IA.No.2 of 2021 found that there is prima facie material that forgery has been committed in the proceedings in filing the vakalath and written statement and ordered for a preliminary enquiry as per Section 340 CrPC. By taking into consideration of the same, the trial Court allowed the application filed by



CRP (MD) No.2143 of 2022

the first respondent / defendant to reject the earlier written statement filed on behalf of the 1st defendant and permitted him to file written statement. There is no reason to interfere with the orders of the trial Court.

7. Accordingly, this civil revision petition is dismissed. No costs. Consequently CMP (MD) No.9906 of 2022 is dismissed.

21.11.2022

dsk

To

The Additional District Munsif
cum Judicial Magistrate,
Sivagiri.



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CRP (MD) No.2143 of 2022

B. PUGALENDHI, J.

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CRP (MD) No.2143 of 2022

21.11.2022