



C.R.P(MD)No.2634 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:28.12.2022

Coram:

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2634 of 2022
and
C.M.P(MD)No.12849 of 2022

1.K.C.Gopika Varma
2.Minor J.Kedarnath
Rep. by Mother/next friend
1st petitioner K.C.Gopika Varma ... Petitioners/Plaintiffs

.VS.

1.Navayugam Publication,
Represented by its Managing Partner
Mr.K.Dhanesh
having registered office at
No.9, Jothikrishna Thottam,
Jeevanantham Street,
Kollapalayam,
Erode-638 002.

2.Mr.K.Dhanesh

3.Mr.D.Marimuthu

4.Gyanodhayam Educational Trust,
represented by its President and Trustee,
Mr.K.Dhanesh,
Plot No.6, Sekar Avenue Kumudham Nagar Main Road,
Mugalivakkam,
Chennai-600 125.



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5. Mrs. P. Rajeswari

Trustee,

Gynodhayam Educational Trust,

Nalan Unavagam,

No.4/7, Church Corner, New Street,

Jawahar Bazaar,

Karur-639 001.

6. Mrs. N. Punitha

... Respondents/Defendants

Prayer:-Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the impugned endorsement dated 22.12.2022 made in un-numbered Commercial Suit bearing C.O.S.Sr.No.10050 of 2022, on the file of the Learned Principal District Judge, Karur and set aside the same and consequently direct the learned Principal District Judge to take on file the Plaint filed by the revisions petitioners and number the same.

For Petitioners

: Mr. Abinav Parthasarathy

ORDER

The present Civil Revision Petition is filed challenging the return of plaint made by the learned Principal District Judge, Karur invoking Section 12A of the Commercial Courts Act, 2015.

2. In the cause of action paragraph, the petitioner has specifically referred that the defendants are attempting to violate the Copy Right in the Food Festival scheduled to be held between December 30th, 2022 till January 1, 2023 at Thiruppur.



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3. The plaintiffs in their interim application in Paragraph-22 have also pointed out that there is a likelihood of violation of Copy Right in the function to be held on December 30th, 2022. The plaintiffs/petitioners have expressed the fact that the urgent interim orders are required on the facts of the case.

4. The plaint was presented on 22.12.2022. Under the impugned order, the learned Principal District Judge, Karur has returned the said plaint for not complying with Section 12A of the Commercial Courts Act, 2015, which is under challenge in the present Civil Revision Petition.

5. Section 12A of the Commercial Courts Act, 2015 is extracted as follows:-

“12A. Pre-Institution Medication and Settlement

(1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987), for the purposes of pre-institution mediation.



(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority authorised by the Central Government under sub-Section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section 91)

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties;

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 (36 of 1963).

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of Section 30 of the Arbitration and Conciliation Act, 1996 (26 of 1996).”

6. A perusal of Section 12A of the said Act indicates that unless an urgent interim relief is sought for under this Act, a suit shall not be instituted without exhausting the remedy of pre-institution mediation in the accordance with such manner and procedure as may be prescribed by rules made by the Central Government. Narration of the facts and events as stated above clearly



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indicates that the petitioner is seeking urgent interim relief on the ground that there is going to be Copy Right violation in a function to be held on December 30th 2022.

7. In view of the above said facts, order of return passed by the learned Principal District Judge, Karur is not legally sustainable by bare reading of Section 12A of the Commercial Courts Act, 2015. Hence, the order of return is hereby set aside. The learned Principal District Judge, Karur is directed to number the suit and consider the interim application on or before 30th December 2022. Registry is directed to return the original plaint to the counsel for the petitioner.

8. In the result, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

28.12.2022

Index : Yes/No
Internet : Yes/No
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Note (1): Issue Order Copy on 28/12/2022

**Note(2): Registry is directed to return the
Original Complaint filed along with
this CRP., to the learned
counsel for the petitioner.**

To

The Principal District Judge,
Karur.



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R.VIJAYAKUMAR, J

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