



C.R.P. No. 851 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 851 of 2023

and

C.M.P.No.6422 of 2023

R.Surehkumar

...Petitioner

.Vs.

A.Thulasi

...Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 16.02.2023 made in I.A.No.1 of 2022 in O.S.No.50 of 2021 on the file of the Additional District Judge, Mayiladuthurai.

For Petitioner

: Mr.Sam Jayaraj Houston



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ORDER

This petition is filed to set aside the order dated 16.02.2023 made in I.A.No.1 of 2022 in O.S.No.50 of 2021 on the file of the Additional District Judge, Mayiladuthurai.

2. The facts of the case is that the petitioner mortgaged the property with the respondent for a sum of Rs.15,00,000/- and the same was duly registered as Document No.659 of 2016 before the Sub-Registrar, Kollidam. Thereafter, the petitioner has re-paid the loan through the brother of the husband of the respondent by name Gopinath in his Bank Account directly and the same was not accepted by the respondent. Therefore, the respondent filed the O.S.No.50 of 2021 and when the same was pending , the petitioner filed I.A.No.1 of 2022 in O.S.No.50 of 2021 to implead the said Gopinath as D2 in the main suit and the same was dismissed. Hence this petition.



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3. The learned counsel for the petitioner submitted that the petitioner has re-paid the amount borrowed from the respondent and to substantiate his case the I.A.No.1 of 2022 in O.S.No.50 of 2021 should be allowed, whereas the learned Judge has dismissed the same. Hence prays this Court to allow this petition.

4. On a perusal of the impugned order the learned Judge has made an observation that to implead the above said Gopinath as D2 in the main suit, no supporting documents have been filed to show that the above said Gopinath was connected with the suit on hand. Further more even though the petitioner admitted the receipt of disputed loan, but he take up a plea that it was already discharged, he has to prove the same by way of oral and documentary evidence. The petitioner failed to do so, hence the learned Judge passed the impugned order, which does not warrant interference by this Court.



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5. In view of the above, the order passed I.A.No.1 of 2022 in O.S.No.50 of 2021 by the Additional District Judge, Mayiladuthurai is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently the connected miscellaneous petition is closed.

13.07.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The Additional District Judge, Mayiladuthurai.



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V.BHAVANI SUBBAROYAN,J.
Smn

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