



WEB COPY



C.R.P.No.2638 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V. LAKSHMINARAYANAN

Civil Revision Petition.No.2638 of 2018
and
Civil.Miscellaneous.Petition.No.15812 of 2018

Kalyani

... Petitioner

Vs.

1.Sivaraman

2.Repco Home Finance Limited,
Represented by its Branch Manger,
Thuraiyur Road,
Namakkal-2.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed by the learned Additional District Judge, Namakkal dated 01.02.2018 in I.A.No.250 of 2017 in O.S.No.12 of 2015.

For Petitioner : M/s.K.V.Babu

For respondents : Ms.Lavanya
for Mr.Ranjith Kumar for R1



ORDER

WEB COPY The petitioner is the defendant. Her brother is the plaintiff. He has presented a suit for recovery of money. According to the plaintiff, he has paid the money which had been availed as a loan from the second defendant and therefore he is entitled to be paid by the first defendant.

2. According to the first defendant/ revision petitioner, she never borrowed money from the second respondent and therefore she is not answerable to pay a single naiya paisa. In order to prove the same, she took out an application to summon loan proposals with respect to 1311860000477, 1311869999491, 1311820000759.

3. According to Mr.K.V.Babu, the learned counsel for the petitioner, if these loan proposals were brought to the Court, then it will substantiate the case that the first defendant had nothing to do with the loan transaction and it was only the plaintiff who was responsible for the same.

4. Ms.Lavanya, the learned counsel appearing for Mr.Ranjith Kumar would submit that the relief that has been sought for is one *inter se* from one defendant to another which goes beyond the scope of the suit. In any event,



the first defendant can always produce certified copies of the documents in order to substantiate their case.

5. Heard both sides and perused the materials available on record.

6. Rule 75 of Civil Rules of Practice applies in situation where documents are demanded from custody of a public officer. Under Rule 75 of Civil Rules of Practice, the officer of the Repco Bank is not a public officer. In any event, wrong quoting of law does not make any difference to the case. The plaintiff could always maintain this application under Section 151 of C.P.C.

7. I am persuaded by the arguments of Ms.Lavanya, the learned counsel for the plaintiff that one party cannot demand a document from the other defendant. That will be amounting to a fishing expedition by one party against the document, which is available, with the other party. In any event the first defendant is always free to produce the certified copies of the loan proposals, which he might have procured under the Right to Information Act or by approaching the second defendant in person. In case the second defendant refuses to part with the loan proposals



WEB COPY



C.R.P.No.2638 of 2018

V. LAKSHMINARAYANAN
jai

sought for in I.A.No.250 of 2017, the first defendant is always entitled to draw adverse inference against the second defendant. While granting the liberty to seek for certified copies of the documents, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.07.2023

jai
Index: Yes/No
Speaking Order: Yes/No

To
The Learned Additional District Judge
Namakkal.

C.R.P.No.2638 of 2018

07.07.2023