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C.R.P.No.1683 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.1683 of 2021
and C.M.P.No.13047 of 2021

Kajamaideen Ibrahim

...Petitioner

-Vs-

V.Jayalakshmi

...Respondent

Prayer:- Civil Revision Petition filed under Section 115 of CPC., to set aside the fair and decreetal order dated 12.03.2021 made in I.A.No.01 of 2021 in O.S.No.71 of 2018 on the file of the learned Principal District Judge, Salem District.

For Petitioner : Mr.N.Vijaya Basker

For Respondent : Mr.T.R.Rajaraman

ORDER

The Plaintiff in the suit in O.S.No.71 of 2018 on the file of the learned Principal District Judge, Salem District, is the Revision Petitioner herein.



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2.The learned Counsel for the Revision Petitioner contended that while filing the suit, the Revision Petitioner had entrusted the Aadhar card to his Counsel. Based on the name in the Aadhar card, the plaint was drafted by the learned Counsel for the Plaintiff, who gave the name 'Kajamaideen Ibrahim'. Originally his name was 'Kajamaideen', his father's name is Ibrahim.

3.The suit was filed for the recovery of money Rs.40,20,000/-. The Defendant had filed written statement; issues were framed and trial commenced. In the course of the cross examination of the Petitioner herein the learned Counsel for the Defendant confronted the Plaintiff as P.W.1, whether his name was 'Kajamaideen Ibrahim' or 'Kajamaideen'. Only at that stage, he came to know about the defect, which was a typographical error committed by the typist attached to the office of the learned Counsel for the Plaintiff.

4.Before the Trial Court, nowhere in the written statement indicated that his name was disputed by the Defendant. By filing this Amendment



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Petition, the Defendant is in no way prejudiced. In the Amendment Petition, the Defendant vehemently objected by filing counter. After due enquiry, the learned Principal District Judge, Salem District, dismissed the Petition, stating that the amendment sought would cause prejudice to the Defendant as it would change the nature of the suit and also it is belated.

5.The learned Counsel for the Respondent vehemently objected to the submission of the learned Counsel for the Revision Petitioner stating that in pg.no.16, dates and events had been furnished by the Respondent in the counter. The learned Counsel further contended that all along, from the date of filing of the suit in the year 2018, it had been continued as 'Kajamaideen Ibrahim' is the Revision Petitioner herein.

6.The Plaintiff had filed Petition only during the pendency of the suit. In all the Petitions and affidavits, the same cause title was used. When the Plaintiff was cross examined, at that stage, only he had filed this Petition, which cannot be accepted and allowed since it prejudices the Defendant. It is a clear case of the Defendant that the Plaintiff is not a known person to the Defendant which is totally denied. The Defendant had



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pleaded the defence of total denial to the plaint averments and the cause of action. The Plaintiff stated in the written statement that the Defendant is a house wife. She has disputed the same, stating that she is employed as Development Officer in the Life Insurance Corporation of India, Salem North Branch and she has no necessity to borrow money.

7.In the light of the above defence, the learned Principal District Judge, Salem District, rejected the contention of the Plaintiff as Petitioner in I.A.No.1 of 2021 in O.S.No.71 of 2018 and dismissed the I.A.No.1 of 2021 in O.S.No.71 of 2018 dated 12.03.2021. It does not warrant any interference by this Court exercising its discretion under Article 227 of the Constitution of India.

8.On consideration of the rival submissions and the affidavit, plaint and written statement, the order passed by the learned Principal District Judge, Salem District in I.A.No.1 of 2021 in O.S.No.71 of 2018 dated 12.03.2021, does not warrant any interference as it is filed subsequent to the cross examination.



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9. Accordingly, this **Civil Revision Petition stands dismissed as devoid of merits**. No costs. Consequently, connected miscellaneous petition is closed.

10. The learned Counsel for the Revision Petitioner requested this Court to direct the learned Principal District Judge, Salem, to dispose of the case without being influenced by any of the observations made by this Court in this order.

11. In the light of the request of the learned Counsel for the Revision Petitioner, the learned Principal District Judge, Salem, is directed to dispose of the suit within a reasonable period of three months from the date of receipt of a copy of this order without being influenced by any of the observations made by this Court in this order.

20.03.2023

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Index : Yes/No

Speaking/Non-speaking order



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SATHI KUMAR SUKUMARA KURUP, J.,

cda

To

The Principal District Judge,
Salem.

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20.03.2023