



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.N.3563 of 2023
and C.M.P.No.22291 of 2023

1.Chellavel
2.Saikumar
3.Saravana

... Petitioners

Vs.

1.Kuppusamy
2.Vadivel
3.Venkatachalam
4.Subramaniam
5.Uttamacholan

... Respondents

PRAYER:-Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 11.08.2023 in I.A.No.6 of 2023 in O.S.No.7 of 2020 on the file of the Hon'ble District Munsif Court, Bhavani.

For Petitioners : B.Gopalakrishnan

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ORDER

This Civil Revision Petition has been filed challenging the order passed by the District Munsif Court, Bhavani dated 11.08.2023 in I.A.No.6 of 2023 in O.S.No.7 of 2020, the petitioner has filed this Revision Petition.

2. Before the trial Court the petitioner herein had filed an application to examine the Inspector of Bhavani Police Station and the Sub- Registrar Rangampalayam as witnesses. The same was dismissed by the trial Court. Aggrieved by the order made in I.A.No.6 of 2023, dated 11.08.2023.

3. The learned counsel for the petitioner submitted that the trial on behalf of the respondents/plaintiffs has been given and further, the case has been posted for further evidence on petitioners/defendants side. A F.I.R has been registered by the plaintiff before the said

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Bhavani Police Station on 06.11.2019 and a receipt has been issued as per the petition No.244/2019 for trespassing with malicious intention of taking defendants right in the property. In such a situation, the respondents/plaintiffs have created illegal documents in relation to the suit property to interfere with the defendants' enjoyment of the suit property. Then the plaintiffs also used their financial influence to file a false complaint against the petitioners/defendants and based on that, a first information report was filed against the petitioners/defendants on 19.11.2019. The petitioners and the respondents were partners in a Joint Venture called “Maha Sri Matheswara Finance” bearing Registration No.347/1997 before the Registration Department. The said company was started on 12.06.1997 and closed on 16.06.1997 and now the petitioners wanted to examine those witnesses otherwise he will be put to irreparable loss. The witnesses, whom he proposed for, to give evidence and to produce documents and requested the assistance of the trial Court to make them to appear before the Court and examine the two additional witnesses for technical aspect for non addition of names

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in the witnesses. Further he stated that natural justice has to be given for them to be heard. In support of his submissions, the learned counsel relied upon the judgment of the Hon'ble Apex Court in the case of ***Sushil Kumar Sen Vs. State of Bihar*** reported in (1975) 1 SCC 774, particularly paras 5 and 6.

4. It is seen that the petitioners herein are the defendants. The plaintiffs/respondents have filed a suit for permanent injunction against the petitioners herein. P.W.1 examination was over and the respondents side evidence was commenced and the petitioners has also given evidence as D.W.1 and for additional evidence the case was posted. At this juncture, as if these petitioners have trespassed into the property of the plaintiffs, the plaintiffs have created a problem and assaulted them and F.I.R.No.506 of 2019 was lodged and both the parties are running a finance company in the name and style of “Maha Sri Matheswara Finance” bearing Registration No.347/1997 as a Joint Venture in the year 1997. Only when these witnesses are examined, the

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same can be proved by them and hence, prayed for examining these witnesses.

5. The respondents has denied the same before the trial Court and stated that already when the written statement was accepted and the F.I.R. was registered on 06.11.2019 and a receipt has been registered and F.I.R. 506/2019 was also registered. The Sub Inspector of Police, is the person who registered the complaint, the purpose for examining him is nothing but to drag on the proceedings and regarding the Joint Venture business run by them has been accepted by him and now he cannot seek for examining the witnesses when he had pleaded and accepted the same and there is no necessity for them to file this application.

6. It is seen that all these aspects are all stated in the plaint and only after trespassing, the same has been filed and they were all parties

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to the proceedings where all have been stated and in the written statement by the petitioners themselves have admitted that they were running a Joint Venture and also regarding the registration of F.I.R. has also been admitted by them. Therefore, there need not be any evidence to be produced in this regard as the said fact was accepted and admitted by them. That being the case, the said application was filed only to drag on the proceedings and that the trial Court was right in dismissing the same.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Speaking : Yes/No
NCC : Yes/No
gba

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To:

The District Munsif Court,
Bhavani.

V.BHAVANI SUBBAROYAN.J.,

gba

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