



C.R.P.No.3783 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3783 of 2023

and

C.M.P.No.23505 of 2023

Maheswaran

... Petitioner

-Vs-

Subramanian

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 11.09.2023 passed in I.A.No.4 of 2022 in I.P.No.35 of 2018 on the file of Principal Sub-Court, Namakkal and allow the Civil Revision Petition.

For Petitioner

: Mr.P.Navaneetha Krishnan



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ORDER

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Challenging the impugned order passed in I.A.No.4 of 2022 in I.P.No.35 of 2018 by the learned Principal Sub-Judge, Namakkal, the Revision Petitioner/1st respondent preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the Revision Petitioner filed an Interlocutory application in I.A.No.4 of 2022 to receive additional documents by condoning the delay under Order VIII Rule 1 (3) of C.P.C. The said application was dismissed by the trial judge stating that the documents, which were sought to be received as additional documents is not necessary to the issue involved in the Insolvency Petition in I.P.No.35 of 2018 filed by the respondent herein. Aggrieved over the said order, the 1st respondent in the said I.P. preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that before the trial court, the respondent filed an Insolvency Petition in I.P.No.35 of 2018 to declare him as an insolvent and in that petition, he filed this application. Now, the case is ripe for enquiry and the petitioner side evidence was completed. When the case is posted for adducing



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evidence on his side, he wanted to mark the documents related to the mortgage deed executed with the Cooperative society and discharge of the mortgage loan. So, with regard to the mortgage loan, he wanted to adduce the said document as additional evidence on his side, which are necessary to prove his valid defence in the said I.P. proceedings. But the trial judge without giving opportunity, erroneously dismissed the application. Hence, he prayed to set aside the findings rendered by the trial judge.

5. On perusal of records, it reveals that in the main I.P. proceedings, now the case is posted for adducing evidence of the 1st respondent/revision Petitioner. Admittedly, he filed an application to receive additional documents and most of the documents in that petition are with regard to mortgage of the property with the cooperative society and discharge of loan and also with regard to the possession of two wheeler. So, all those documents are necessary to prove his defence, but the opportunity was not given. Furthermore, the marking of the said documents would not cause any prejudice to the respondent/petitioner and it would not amount to admission of contents. Therefore, mere marking of the documents, if the Revision Petitioner is not permitted to mark those documents on his side, he will be put into much hardship. But, without appreciating all the legal



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aspects, the trial judge erroneously dismissed the application, which would shows his non-application of judicious mind. Therefore, this Court is inclined to set aside the findings rendered by the trial judge in I.A.No.4 of 2022 in I.P.No.35 of 2018. The Revision Petitioner is permitted to produce those documents on his side and on production of documents, liberty is granted to the respondent to cross-examine the witness as per manner known to law. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To

The Principal Sub-Judge, Namakkal.



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T.V.THAMILSELVI, J.

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