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C.R.P. No.3607 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P. No.3607 of 2019
and
C.M.P.No.23625 of 2019

Mr.S.Ramesh Babu

.. Petitioner

vs.

V.Anandkumar @ V.G.Anand Kumar

..Respondent

Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.09.2019 made in I.A.No.1 of 2019 in O.S.No.538 of 2016 on the file of XVII Additional City Civil Court, Chennai.

For Petitioner : Mr.M.Kempraj

For Respondent : Mr.S.Mothilal Gowda

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 27.09.2019 made in I.A.No.1 of 2019 in O.S.No.538 of 2016 on the file of XVII Additional City Civil Court, Chennai.



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2. The suit is for recovery of money. Averments in the said suit is that the plaintiff's father one V.G.B.Sivaram had very close relationship with one Mr.V.Radha Narasimha Rao. That gentlemen Mr.V.Radha Narasimha Rao is not only the auditor of the defendant but also a relative of the defendant. According to the defendant, it was on the introduction given by Mr.V.Radha Narasimha Rao, an amount of Rs.5,00,000/- was paid to the defendant.

3. During the course of trial, the plaintiff took an application in I.A.No.1 of 2019 to summon the said V.Radha Narasimha Rao. The application was allowed, against which, the present revision is filed.

4. Heard Mr.M.Kempuraj, learned counsel appearing for the petitioner and Mr.S.Mothilal Gowda, learned counsel appearing for the respondent.

5. Mr.M.Kempuraj, learned counsel appearing for the petitioner, relying upon the judgments of the Privy Council and this Court, submitted that it is a bad practise for the plaintiff to summon the witnesses of the defendant. He would state that the pro-note is not signed



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or witnessed by Mr.V.Radha Narasimha Rao and therefore, his presence is unnecessary to the suit.

6. Mr.S.Mothilal Gowda, learned counsel appearing for the respondent would submit that even in the plaint, it had been disclosed that Mr.V.Radha Narasimha Rao, had introduced the plaintiff to the defendant and it was on his assurance that amount had been paid. The fact that Mr.V.Radha Narasimha Rao had dealt with both the parties is not denied. Whether Mr.V.Radha Narasimha Rao had in fact facilitated the payment of loan or otherwise shall be known only if Mr.V.Radha Narasimha Rao is examined as party to the suit.

7. It is settled position that the plaintiff cannot summon the defendant and *vice versa*. That position does not apply in the present case because the said Mr.V.Radha Narasimha Rao is neither the plaintiff nor the defendant in the suit.

8. Insofar as the objection that Mr.V.Radha Narasimha Rao is the auditor and therefore, he cannot depose against the plaintiff does not hold water. There are only certain professions like that of advocacy,



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where professional advice given by one party to the other is treated as privilege communication, which cannot be disclosed. The introduction by an auditor of the defendant to the plaintiff is not during his course of his professional work but may be out of friendship or courtesy. Such a situation falls outside the scope of professional relationship. Accordingly, I do not find any error or illegality in the order dated 27.09.2019 in I.A.No.1 of 2019 in O.S.No.538 of 2016 passed by XVII Additional City Civil Court, Chennai.

Accordingly, this Civil Revision Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

24.08.2023

Index: Yes/No
Neutral Citation: Yes/No
mp

To:

1. XVII Additional City Civil Court,
Chennai.



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V. LAKSHMINARAYANAN, J.

mp

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