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CRP No.4136 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 06.11.2023

CORAM :

**THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI**

Civil Revision Petition No.4136 of 2023

and

CMP.No.25245 of 2023

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1.M/s.A.R.R.Srinivasan Firm,  
A partnership Firm,  
Represented by its partner Mrs.Geetha Ramanathan,  
No.22, 23 24 Kalaimagal Street,  
Swarnapuri, Salem-636 004.

2. Geetha Ramanathan  
3.Radhika Rani  
4.Rekhs Devi

... Petitioners

Versus

1.P.Manoharlal  
2.Narayana Vishnu Prasad  
3.Rajeswari Srinivasan

...Respondents

Civil Revision Petition filed Under Article 227 of Constitution of India,  
praying to set aside the fair and final order dated 19.09.2023 passed in  
I.A.No.4 of 2023 in C.O.S.No.19 of 2023 on the file of the Commercial  
(Senior Civil Judge), Salem.

For Petitioner : Mr. R.Nalliappan



CRP No.4136 of 2023

WEB COPY

## **ORDER**

The petitioner has filed this revision petition to set aside the fair and final order dated 19.09.2023 passed in I.A.No.4 of 2023 in C.O.S.No.19 of 2023 on the file of the Commercial (Senior Civil Judge), Salem.

2. Heard, Mr. R.Nalliappan, learned counsel for the petitioners and perused the materials available on record.

3. Before the trial Court the plaintiff has filed an application under Order 16 Rule 1 (2) and Section 151 of CPC, to permit the petitioner to summon the Branch Manager of IOB, where the 1<sup>st</sup> defendant is having his account, but need not to prove his claim amount of the 1st defendant. That application was strongly objected by the contesting defendants stating that in order to fill up the lacuna, the plaintiff has filed an application during the trial as such is not maintainable. The Court of the Commercial ought to have called for the records pertaining to the Bank statement of the 1st defendant from the HDFC Bank, Salem. Instead of that, records have been called from the IOB bank, where the 1<sup>st</sup> defendant is having his account as such is not permissible.



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4. Considering both side submissions, the learned trial Judge held that, during the trial Proceedings there is an evidence, pleading that there was a transaction between the petitioner and the 1st defendant and the same was denied by other defendants. To prove the same he wants to examine the Bank Manager of IOB where the 1<sup>st</sup> defendant is having his bank account. The learned counsel submits that after completion of evidence, he wants to examine the Bank Manager. Accordingly, the application was allowed. Aggrieved by the said order, the revision petitioner has preferred this revision.

5. The learned counsel for the revision petitioners submitted that after completion of the evidence, to fill up lacuna he wants to examine the Bank Manager of IOB. But during the examination of the plaintiff, he has not produced any proper evidence to support his contention, in respect of Ex.A4. On seeing the evidence, the trial has begun. To prove the claim, the plaintiff wants to summon the Bank Manager along with the statement of accounts.

6. Opportunity is already granted to the petitioners to contest the case. The defendants also raised all their objections before the trial court. If at all, to fill up lacuna, the parties can put forth their arguments while disposing of the



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CRP No.4136 of 2023

**T.V.THAMILSELVI, J.**

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suit, and not at this stage. Therefore, this Court does not find any merits in this revision.

7. Accordingly, the Civil revision petition is dismissed. However learned trial Judge is directed to dispose of the case as early as possible. Consequently, connected miscellaneous petition is closed. No costs.

**06.11.2023**

Index : Yes/No  
Speaking/Non Speaking order  
Neutral Citation: Yes/No  
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To

1. The Commercial (Senior Civil Judge), Salem.
2. The Section Officer,  
VR-Section, High Court of Madras.

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