

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****Dated : 12.10.2023****CORAM:****THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD****C.R.P.(PD).No.4066 of 2019
and C.M.P.No.26678 of 2019**

Ramasamy @ Adishesan

... Petitioner

Vs.

1. Punitha

2. Manikandan

3. Rajaguru

4. Soundari

... Respondents

Civil Revision Petition filed under Section 227 of the Constitution of India to set aside the order dated 21.08.2019 passed in I.A.No.1079 of 2019 in O.S.No.1944 of 2012 on the file of the learned Principal District Munsif, Puducherry by allowing the Civil Revision Petition.

For Petitioners : Mr.V.V.Sairam

For Respondent : Mr.R.Thilagarajan for R1 & R2

No appearance for R3 & R4



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ORDER

The present civil revision petition has been filed challenging the order 21.08.2019 passed by the learned Principal District Munsif, Puducherry in I.A.No.1079 of 2019 in O.S.No.1944 of 2012.

2. The learned counsel for the petitioner submitted that the petitioner is the plaintiff in the suit and the application I.A.No.1079 of 2019 in O.S.No.1944 of 2012 was filed on 07.08.2012 before the Principal District Munsif Court, Puducherry under Order XVI Rule (3) r/w Section 151 of CPC to summon the Station House Officer, Kalapet Police Station or any other subordinate Police Officer duly authorised by him so as to produce documents mentioned in the petition and to give evidence in respect of them. Since the petitioner preferred a complaint before Kalapet Police and the same was acknowledged by a receipt issued by the Kalapet Police, the petitioner wanted to examine the Station House Officer of the Kalapet Police Station in regard to the contents of the complaint which has been marked as Ex.A.16.

3. The learned counsel would further submit that the trial Court



has dismissed the petition on the ground that Ex.A.16 is nothing but a receipt issued acknowledging the complaint preferred by the revision petitioner/petitioner. The other ground stated by the trial Court was that the Police Officer who was in the year 2012 issued Ex.A16 and by this time he would have got transferred and only the present police official can depose what was recited in Ex.A.16 in respect of the suit. So summoning the Station House Officer, Kalapet is mere wasting of time and that preferring a complaint alone would not show that a person is in possession of the disputed property. The other ground stated by the learned trial Judge for dismissing the application was that if at all the petitioner wanted to examine the Kalapet Station House Officer, he would have impleaded the said official as witnesses in I.A.No.533 of 2014 in which three witnesses have already been examined on the side of the plaintiff/petitioner. According to the learned counsel, the said finding arrived at by the learned trial Judge is erroneous and the same is liable to be set aside, as the Station House Officer is a crucial witness and his evidence will be an additional evidence to prove his case that he is in possession of the disputed suit property.



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4. The learned counsel appearing for the respondents submitted that the suit is for possession and the same is pertaining to the year 2012 and the possession has to be proved by other documents and not the complaint given to the Kalapet Police Station. Hence the examination of the Station House Officer in regard to Ex.A.16 which is a receipt containing the complaint given to the Police Station is not relevant for deciding who is in possession of the suit schedule property and the suit.

5. Heard both sides and perused the materials available on record.

6. It can be seen from the records that the petition was filed under Order XVI Rule (3) r/w Section 151 of CPC and in that it is clearly mentioned that the Station House Officer, Kalapet Police Station or any other police duly authorised by him is required to be examined to speak about the complaint dated 12.10.2012 given by one Adishesan vide acknowledgment receipt No.26/2012 **which is already marked as Exhibit A.16** and bearing receipt serial No.32526 and about enquiry proceedings, which will be an additional evidence to prove the possession of the property by the plaintiff herein. Hence no prejudice



would be caused to the respondents if the Station House Officer, Kalapet Police Station is examined. **There is no doubt that the suit is for possession and the same is of the year 2012.**

7. In view of the above facts and circumstances of the case, the order dated 21.08.2019 passed by the learned Principal District Munsif, Puducherry in I.A.No.1079 of 2019 in O.S.No.1944 of 2012 is set aside and the learned Principal District Munsif, Puducherry is directed to issue summon to the Station House Officer, Kalapet Police Station for his appearance before the Court **for deposing evidence on 07.11.2023** in regard to Ex.A.16 which contains the complaint as well as the acknowledgment receipt.

8. **This apart, since the suit is at the stage of defendants' side evidence and the same is of the year 2012, the learned Principal District Munsif, Puducherry is directed to dispose of the suit as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of the order.**



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9. In the result, this civil revision petition stands allowed with the above observation and directions. No costs. Consequently the connected miscellaneous petition is also closed.

Index : No

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Internet : Yes

dpq

Issue order copy on 16.10.2023



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J. SATHYA NARAYANA PRASAD, J.

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To

1.The Principal District Munsif Court,
Puducherry

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Issue order copy on 16.10.2023

12.10.2023