



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.07.2023
Delivered on : 10.11.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.141 of 2023

Shri Thirumagal Finance,
Door No.7/140(2), Swami Sannathi Street,
Paramakudi Town,
Ramanathapuram District,
Represented by Administrative Committee,
1.Pitchai Manickam
2.Harivasagan
3.Manivannan

... Petitioner/Petitioner

Vs.

Sivakumar

... Respondent/Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 21.06.2022 made in C.O.S.No. 28 of 2022 on the file of the Principal District Court (Commercial Court), Ramanathapuram.

For Petitioner
For Respondent

:Mr.D.Senthil
:Mr.R.Suriyanarayanan

**ORDER**

This civil revision petition is filed as against the docket order, dated 21.06.2022 passed in C.O.S.No.28 of 2022 by the Principal District Court (Commercial Court), Ramanathapuram.

2. According to the revision petitioner, the petitioner is a partnership firm and represented by its Administrative Committee, has filed a commercial suit in C.S.No.64 of 2021 before the Principal District Court (Commercial Court) Ramanathapuram, against the respondent, under Section 6 of the Commercial Court Act, for recovery of money. The said suit was entertained by the Principal District Judge, Ramanathapuram, and at the time of framing the issues, by referring to the proceedings dated 08.06.2022 and 21.06.2022 in Roc.No.A1/82/2022, transferred the case to the Additional District Court, Paramakudi, and the same was renumbered as C.O.S.No.28 of 2022.

3. The contention of the learned counsel appearing for the petitioner is that the dispute between the petitioner and the respondent is relating to commercial dispute within the meaning of Section 2(c)(i) of the Commercial Courts Act, 2015 and therefore, it would not be proper for the Court below to transfer C.S.No.64 of 2021 to the Additional District Court, Paramakudi, which has been renumbered as C.O.S.No.28 of 2022. Further, it is



contended that the transfer can be made, if the petitioner has complied with the requirement of Section 12(A) of the Commercial Court Act, 2005, by resorting to Pre-Institution Mediation and the decision to transfer the case as original civil suit, at that time, when the case was listed for framing issues, is not in accordance with law. Therefore, the present revision is filed.

4.Per contra, the learned counsel appearing for the respondent would submit that the above suit is filed for recovery of money due on a mortgaged deed and the subject matter does not attract the requirements of the provisions under 2(c)(i) of Commercial Courts Act, 2015. Hence, the regular Court alone is competent to try and dispose of the above suit. Therefore, the docket order passed by the learned Principal District Judge (Commercial Court), Ramanathapuram is correct, which calls for no interference.

5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the records available on record.

6.As per the plaint averments, the respondent has borrowed a sum of Rs.30,00,000/-(Rupees Thirty Lakhs only), for meeting his family expenses and for his business purpose, from the petitioner firm and executed promissory notes in favour of the petitioner firm. Thereafter, the respondent



borrowed a sum of Rs.20,00,000/-(Rupees Twenty Lakhs only) from the petitioner firm on various dates. It is further averred that the defendant has mortgaged his property for the said loan in favour of the petitioner firm.

Since it is a suit based on mortgage loan, it would not come under the purview of the provisions contemplated under Commercial Court Act. Therefore, there is no infirmity found in the order passed by the learned District Judge, transferring the above suit from the Commercial Court to the Regular Court.

7.In view of the above, this Civil Revision Petition is dismissed. No costs.

10.11.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

Ns

To

1.The Principal District Court
(Commercial Court),
Ramanathapuram.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY

5



K.GOVINDARAJAN THILAKAVADI, J.

Ns

C.R.P(MD)No.141 of 2023

10.11.2023