



C.R.P(PD)(MD).No.58 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **B.PUGALENDHI**

C.R.P.(PD)(MD).No.58 of 2023

and

C.M.P(MD).No.294 of 2023

M.Gnanavel

... Petitioner

Vs.

S.Balasubramanian

... Respondent

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set a side the Fair and Executable order passed in I.A.No.772 of 2022 in I.A.No.541 of 2022 in O.S.No.52 of 2021 on 07.12.2022 by the Sub-Judge, Thirumangalam.

For Petitioner : Mr.Babu Rajendran



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ORDER

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This Civil Revision Petition has been filed to set aside the Fair and Executable order passed in I.A.No.772 of 2022 in I.A.No.541 of 2022 in O.S.No.52 of 2021 on 07.12.2022 by the Sub-Judge, Thirumangalam.

2. The respondent/plaintiff has filed I.A.No.541 of 2022 to reopen the suit for the purpose of examining two other witnesses and the same was allowed on payment of cost of Rs.500/-(Rupees Five Hundred only) payable by the respondent/plaintiff to the petitioner on or before 10.10.2022. The respondent/plaintiff failed to pay the amount. Application in I.A.No.724 of 2022 has been filed with an allegation that this petitioner refused to receive the amount and thereafter, the said application was dismissed as withdrawn. Thereafter, the respondent/plaintiff has filed another application in I.A.No.772 of 2022 stating that since he suffered from jaundice, he was unable to pay the cost and the learned Judge allowed the petition with further cost of Rs.600/-(Rupees Six Hundred only). Challenging the same, the present Civil Revision Petition has been filed before this Court.



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3. Heard the learned counsel for the petitioner and also perused the materials available on record.

4. The respondent/plaintiff has filed a suit in O.S.No.52 of 2021 on the file of the Sub-Judge, Thirumangalam for recovery of money and the evidence of plaintiff was closed on 19.07.2022. Thereafter, the respondent has filed I.A.No.541 of 2022 to reopen the suit for the purpose of examining the attestors of the alleged promissory note. The promissory note is necessary for the justification of the suit. Therefore, the trial Court allowed the petition with a cost of Rs.500/-(Rupees Five Hundred only), payable by the respondent/plaintiff to the petitioner/defendant on or before 10.10.2022. The respondent/plaintiff failed to pay the above said amount. Thereafter, he filed another application in I.A.No.772 of 2022 and the same was allowed with further cost of Rs.600/- (Rupees Six Hundred only).



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5. This Court feels that if notice is ordered to the respondent herein, it will cause further delay in the process of the suit, which is pending from the year 2021.

6. In the order passed in I.A.No.772 of 2022, the learned Judge after considering all the aspects and the nature of relief sought for by the respondent / plaintiff, has allowed the petition on costs and therefore, this Court is not inclined to interfere with the order passed by the learned Subordinate Judge, Thirumangalam. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

10.01.2023

Index : Yes/No
Internet : Yes
Speaking/Non-speaking order
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To
Sub Court, Thirumangalam.



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B.PUGALENDHI, J.

tta

Order made in
C.R.P.(PD)(MD).No.58 of 2023

Dated:
10.01.2023