



CRP(MD).No.469 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.469 of 2023

and

C.M.P(MD).No.2244 of 2023

Nirmal Rajan

.. Petitioner/Petitioner/Defendant

Vs.

Arasu Rubber Corporation Ltd.,
rep., by is Managing Director,
Vadasery, Nengercoil,
Agasteeswaram Taluk,
Kanyakumar District.

... Respondent/Respondent/Plaintiff

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 31.01.2023 passed in I.A.No.10 of 2022 in O.S.No.114 of 2019 on the file of the Special Court (for forest cases), Nagercoil.

For Petitioner : Mr.V.Meenakshi Sundaram

ORDER

The defendant in a suit for recovery of money is the revision petitioner herein.



CRP(MD).No.469 of 2023

2. The plaintiff had filed the suit for recovery of a sum of Rs.6,49,404/- on the ground that the plaintiff and the defendant have entered into a compromise in O.S.No.107 of 2018, under which, the defendant had agreed to remove the bushes, weeds and agricultural waste while vacating the property. However, since the defendant had not cleared the bushes, weeds and the agricultural waste at the time of vacating the property, the plaintiff had to incur the said expenses and hence, the present suit for recovery of money has been filed.

3. The defendant had contended that he has strictly complied with the compromise memo and he has also taken a videograph of removal of bushes, seeds and agricultural waste as per the directions of this Court in C.R.P.Nos.2279 and 2280 of 2018.

4. When the suit is posted for P.W.1 cross, the defendant has filed the present application in I.A.No.10 of 2022 under Order 12 Rule 8 of the Code of Civil Procedure to direct the plaintiff to produce some documents. A perusal of the list of the documents annexed to the petition indicate that the revision petitioner/defendant would like the production of the entire files relating to the lease between the plaintiff



CRP(MD).No.469 of 2023

and the defendant from 19.08.2015 to 07.01.2019. The petitioner has further sought for a list of rubber trees and task number along with the list of tappers and the latex collection documents in Couph No.18 of Parliyar Division for the year 2020-2021 and 2021-2022. The said application has been dismissed by the trial Court on the ground that these documents are not relevant for deciding the suit for recovery of money. Challenging the same, the present revision petition has been filed.

5. According to the learned counsel appearing for the petitioner, when P.W.1 was cross-examined, he was highly evasive and he had deposed that he could answer the questions only after looking into the documents. Unless those documents are produced before the Court, the defendant would not be in a position to establish that he had strictly complied with the clauses in the compromise memo. Therefore, he prayed that these documents are necessary and the order of trial Court should be set aside.

6. I carefully considered the submission made on the side of the petitioner and perused the materials placed on record.



WEB COPY

7. The suit for recovery of money has been filed based upon the compromise memo entered into between the plaintiff and the defendant in O.S.No.107 of 2018 on 14.08.2018. The plaintiff had claimed the said amount on the ground that the defendant has violated the clauses found in the compromise memo and the plaintiff had to incur expenses to carry-out the removal of bushes, weeds and agricultural waste. Therefore, it is clear that the entire burden is upon the plaintiff to establish that he had carried out the clearing operations of the bushes, weeds and agricultural waste from the property. It is also the burden of the plaintiff to establish the quantum of expenses that were incurred by the plaintiff for the said operation. When the entire burden is upon the plaintiff, it is for the plaintiff to place the documents to prove his case before the Court. When the plaintiffs are not willing to place the documents before the Court, it is not for the defendant to insist upon the plaintiff to produce those documents. The defendant had filed the present application on the misapprehension that the deposition of P.W.1 may cause some prejudice to his case. It is for the trial Court to decide whether to take adverse inference from the deposition of P.W.1 or not.



WEB COPY



CRP(MD).No.469 of 2023



CRP(MD).No.469 of 2023

8. With the aforesaid observations, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.02.2023

Index : Yes / No

Internet : Yes / No

Rmk

To

The Special Judge (for Forest Cases), Nagercoil.



WEB COPY



CRP(MD).No.469 of 2023

R.VIJAYAKUMAR ,J.,

Rmk

Order made in
CRP(MD).No.469 of 2023

Dated:
22.02.2023