



C.R.P.(MD)No.3300 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3300 of 2023

and

C.M.P.(MD)No.17003 of 2023

M/s.P.S.R.Educational Trust
represented through its
Managing Trustee R.Solaisamy

... Petitioner

Vs.

1. Gnanasekaran

2. Nellai Kumar

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the CRP with costs by setting aside the fair and final order in I.A.No.3 of 2023 in O.S.No.93 of 2014 dated 01.11.2023 on the file of Sub Court, Sivakasi.

For Petitioner : Mr.A.Sivaji

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.3 of 2023 in O.S.No.93 of 2014 dated 01.11.2023 on the file of the



C.R.P.(MD)No.3300 of 2023

Subordinate Court, Sivakasi, dismissing the application filed under Order 26 Rule 4(A) C.P.C. for examining the revision petitioner through Advocate Commissioner.

2. The first respondent/plaintiff has filed the suit in O.S.No.93 of 2014 seeking direction to the revision petitioner/second defendant and the second respondent/first defendant to pay a sum of Rs.10 lakhs to the first respondent/plaintiff as damages for the malicious prosecution by them against the first respondent/plaintiff and for the mental agony and financial sufferings undergone by the first respondent/plaintiff.

3. When the suit was in part-heard stage, the revision petitioner/second defendant has filed the present application in I.A.No.3 of 2023 seeking permission to appoint an Advocate Commissioner to examine him at his residence or in the office room of his college premises. More importantly, in the affidavit filed in support of that application, the revision petitioner/second defendant has canvassed a reason that he has been looking after the administration work for all the five educational institutions and he has also been looking after the hostel administration



C.R.P.(MD)No.3300 of 2023

and transport facilities for the college students, that he has to spend his full time only in the college premises for the smooth administration and has to make his physical presence in the office for the smooth running of the educational institutions and that since due to pre-occupation and is duty bound to look after the day-to-day administration of the five educational institutions, he is not in a position to appear before the Court for deposing and on that ground, he prayed for appointment of Advocate Commissioner. When the trial Court has raised a query, the revision petitioner/second defendant has filed an additional affidavit alleging health issues. But the first respondent/plaintiff before the trial Court has produced newspapers showing that the revision petitioner/second defendant has participated in a function.

4. Except the back pain, diabetes and pressure problem, the revision petitioner/second defendant has not canvassed any other serious ailments warranting his examination in his office or in his college premises. Considering the above, the impugned order dismissing the application cannot be found fault with. Hence, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.



C.R.P.(MD)No.3300 of 2023

5. In the result, this Civil Revision Petition is dismissed.

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Consequently, connected Miscellaneous Petition is closed. No costs.

19.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Sub Court,
Sivakasi.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.3300 of 2023



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C.R.P.(MD)No.3300 of 2023

K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.3300 of 2023
and
C.M.P.(MD)No.17003 of 2023

Dated : 19.12.2023