



C.R.P.(MD)No.3312 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3312 of 2023
and
C.M.P.(MD)No.17099 of 2023

R.Pandiaraj

... Petitioner

Vs.

Murugathal (Died)

1. Kumarathal

2. Babi

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.12.2023 made in I.A.No.3 of 2023 in O.S.No.360 of 2014 on the file of the Additional Subordinate Judge, Palani.

For Petitioner : Mr.A.V.Arun

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.3 of 2023 in O.S.No.360 of 2014 dated 02.12.2023 on the file of



C.R.P.(MD)No.3312 of 2023

the Additional Subordinate Court, Palani, dismissing the application filed under Rule 75 of Civil Rules of Practice for summoning the medical officer attached to Government Hospital, Ayakudi, along with attendance register for December-2012 in respect of the witness Karuppasamy.

2. The deceased Murugathal as plaintiff has filed the above suit in O.S.No.360 of 2014 for recovery of Rs.6,05,000/- with interest, due on the promissory note. When the case was pending for defendant's side evidence, the above application in I.A.No.3 of 2023 came to be filed.

3. The main contention of the revision petitioner/defendant is that the witness Karuppasamy, who was working as Sanitary Inspector in Ayakudi, was not available at the time of execution of the promissory note and that since the witnesses have deposed that the promissory note was executed between 07.30 a.m. and 09.30 a.m. on 12.12.2012, the revision petitioner/defendant was constrained to file the above application calling the attendance register through the medical officer attached to Government Hospital, Ayakudi. But it is seen from the records that the revision petitioner/defendant has already applied and obtained the copy of the



C.R.P.(MD)No.3312 of 2023

attendance register for December-2012 under the Right to Information (RTI) Act.

4. The learned counsel appearing for the revision petitioner would submit that the revision petitioner/defendant wanted to examine the medical officer with regard to the timings of the Sanitary Inspector. The revision petitioner/defendant can very well apply for the timings of the Sanitary Inspector before the concerned Department, as applied and obtained earlier.

5. The learned trial Judge, by specifically observing that P.W.1-wife of the witness Karuppasamy was not at all cross-examined with regard to the timings of the execution of the promissory note, that other two witnesses have deposed that the promissory note was executed between 07.30 a.m. and 09.30 a.m., that the attendance register claimed by the revision petitioner/defendant is not necessary and that the above application has been filed only to protract the proceedings, has dismissed the application.



C.R.P.(MD)No.3312 of 2023

WEB COPY

6. Considering the above facts and circumstances and also the facts that the revision petitioner has already obtained the copy of the attendance register for December-2012 and that the suit is pending from 2014 onwards, 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. However, the revision petitioner is at liberty to apply and produce the circular or any letter from the concerned Department with regard to the timings of the Sanitary Inspector and on such requisition is made, the learned Additional Subordinate Judge, Palani, is directed to give sufficient time to the revision petitioner for getting the same.

7. In the result, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

20.12.2023

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



C.R.P.(MD)No.3312 of 2023

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To

1. The Additional Subordinate Court,
Palani.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.3312 of 2023

K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.3312 of 2023
and
C.M.P.(MD)No.17099 of 2023

Dated : 20.12.2023