



C.R.P.No.55 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.55 of 2023

Avinash Malhotra

... Petitioner

-Vs-

1.C.Karthikeyan

2.K.Thenmozhi

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decretal order in IA No.3 of 2022 in O.S.No.3102 of 2018 dated 08.11.2022 passed by the learned XXI Additional City Civil Judge, Chennai.

For Petitioner : Ms.Tanya Kapoor
For Respondents : Mr.Shankarvel

ORDER

This revision seeks to set aside the order passed in I.A.No.3 of 2022 in O.S.No.3102 of 2018 dated 08.11.2022 passed by the learned XXI Additional City Civil Judge, Chennai.

2. O.S.No.3102 of 2018 is a suit filed for recovery of a sum of Rs.21,28,000/. The suit has been filed on the foot of four promissory notes dated 05.07.2016. Summons were served on the parties and they entered appearance through counsel and have filed their written statements. Pending the suit, an application was taken



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in I.A.No.3 of 2022 seeking for leave of the Court under Order 7 Rule 14(3) of CPC to let in additional evidence. The said application was dismissed on the ground that the list of documents had not been filed.

3. Ms.Tanya Kapoor appearing for the petitioner / plaintiff drew my attention to the four documents which she seeks to file. She would point out that they are certified copies of the documents which had been issued by the Court for having been filed on 09.03.2022. They are IT acknowledgments and returns for the assessment years 2018-19, 2019-20, 2020-21 and 2021-22. She would state that those have been downloaded from the Income Tax website and have been accompanied by necessary 65B affidavit as required under the Evidence Act. She would state that those documents have already been filed by the petitioner and the fact that the list has not been filed does not vitiate the proceedings under Order 7 Rule 14(3).

4. Mr.Shankarvel appearing for the respondent would submit that when the petitioner seeks leave of the Court to let in additional documents, it is the duty of the said party to strictly comply with the provisions and no exception can be taken to the order passed by the learned trial Judge.

5. Under Order VII Rule 14, in case a party does not file the documents in time, the party will not be permitted to produce the same unless and until the leave



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of the Court is granted. As pointed out by Ms.Tanya Kapoor, those documents were already available in Court and only the list has not been annexed along with the same. The Code of Civil Procedure is a code of fairness and it is not a tool of punishment in order to hit out at a party for not complying with the same. When there is specific compliance in terms of Order VII Rule 14 that the documents that are relied upon are all Income Tax records and that the certified copies thereof are provided, I fail to see why the learned Trial Judge did not grant permission. Some of the documents have come into force pending the suit and therefore there is no way the plaintiff could have pleaded about those documents at the time of presentation of the plaint.

6. Taking into consideration the entire circumstances of the case, I am inclined to grant leave to the petitioner to let in additional documents. The order passed in I.A.No.3 of 2022 in O.S.No.3102 of 2018 dated 08.11.2022 is set aside. Learned counsel for the petitioner/plaintiff shall file a list of the documents which have been enclosed in the typed set of papers in order to update the records of the Court. Liberty is granted to the petitioner to let in additional records filed as Document Nos.7 to 10 as filed before this Court. The Civil Revision Petition is allowed. No costs.

03.06.2024

Index : Yes/No

Neutral Citation : Yes/No



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V. LAKSHMINARAYANAN, J.

KST

To

The XXI Additional City Civil Judge
City Civil Court, Chennai.

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