



WEB COPY

C.R.P.No.1203 of 2024.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1203 of 2024 and
C.M.P.No.6219 of 2024

Mr.Periyasamy

... Petitioner

Vs.

Mr.Palaniyandi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 03.02.2024 passed in I.A.No.4 of 2024 in O.S.No.62 of 2022 pending on the file of learned Principal District Judge, Perambalur.

For Petitioner

:M/s.D.Kalaivani

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking a direction to the respondent/plaintiff to produce the passbook containing entries regarding withdrawal of money on the date of alleged promissory note to the petitioner.

1/5



2. The respondent herein filed a suit for recovery of money based on the promissory note dated 01.09.2019. The petitioner herein filed a written statement denying the execution of the promissory note and receipt of any amount from the respondent.

3. When the respondent was examined as P.W.1, he deposed as if on 01.09.2019, he withdrew a sum of Rs.10 lakhs from his bank and paid the amount to the petitioner. Therefore, the instant application has been filed by the petitioner seeking direction to respondent to produce his passbook to prove the entries regarding withdrawal of money by him on 01.09.2019. The respondent herein filed a counter stating that passbook was misplaced by him and in that connection, he made a complaint to the police on 21.11.2022. The Trial Court dismissed the application on the ground that petitioner has not disputed the financial status of the respondent to advance money and hence, the instant application was not necessary.

4. The petitioner wants to dispute the statement made by the respondent in witness box as if the amount was withdrawn by him on 01.09.2019 from the



C.R.P.No.1203 of 2024.

bank and the same was paid to the petitioner. It is always open to the petitioner to issue notice to produce the document and if the respondent failed to produce, he can make a request to the Court to draw adverse inference. Instead of adopting the said procedure, the application filed by the petitioner seeking a direction to respondent to produce the document is not at all necessary. Further, the respondent has filed a counter stating that document mentioned by the petitioner was not available with him and the same was misplaced. In such circumstances, no purpose would be served by allowing the application filed by the petitioner. If at all, it is for the petitioner to issue notice to produce and mark the same before the Trial Court, if so advised.

5. With these clarifications, the Civil Revision Petition stands dismissed.

No costs. consequently, the connected miscellaneous petition is closed.

28.03.2024

Index : Yes / No

Internet : Yes / No

nr



C.R.P.No.1203 of 2021.

To

The Principal District Court, Perambalur.



WEB COPY



C.R.P.No.1203 of 2024.

S.SOUNTHAR, J.

nr

CRP.No.1203 of 2024
and
C.M.P.No.6219 of 2024

28.03.2024