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*C.R.P.(PD)No.2868 of 2024  
and Tr.C.M.P.No.1289 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.12.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.2868 of 2024  
& C.M.P.No.15250 of 2024  
and Tr.C.M.P.No.1289 of 2024  
& C.M.P.No.27880 of 2024

**C.R.P.No.2868 of 2024**

P.Premananth

.. Petitioner

Vs

Kaviyarasan

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.15 of 2024 on the file of the learned District and Sessions Judge at Mayiladuthurai.



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**Tr.C.M.P.No.1289 of 2024**

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P.Premananth

.. Petitioner

Vs

Kaviyarasan

.. Respondent

**Prayer:** Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw O.S.No.15 of 2024 pending on the file of the District and Sessions Court at Mayiladuthurai, Mayiladuthurai District and transfer to the file of the District and Sessions Court, Cuddalore, Cuddalore District.

**In both petitions:**

For Petitioner : Mr.V.Subramanian

For Respondent : Mr.R.Anburaj

**COMMON ORDER**

The civil revision petition seeks to strike off O.S.No.15 of 2024 on the file of the District and Sessions Court at Mayiladuthurai.



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2. The civil revision petitioner is the defendant in the suit. The sole respondent is the plaintiff. O.S.No.15 of 2024 had been presented by the respondent on the file of the learned District Judge at Mayiladuthurai seeking for a recovery of a sum of Rs.9,13,620/- together with subsequent interest and costs.

3. It is the case of the plaintiff that, on 24.02.2019, the defendant had received amounts from the plaintiff. He also pleaded that he had given amounts subsequently towards partial discharge of the same. He added that, on 15.12.2022, the defendant had executed a promissory note in favour of the plaintiff. Despite demands, as the defendant did not pay the amounts, the plaintiff was constrained to present the suit.

4. Soon after service of summons, the defendant has presented this revision to strike off the plaint. According to him, the entire litigation is a fraudulent and is a tool to ensure that the Bar Council complaint, which had been lodged, pursuant to the order of this Court in CrI.O.P.No.16732 of 2023, is compromised.



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5. According to the defendant, a criminal complaint, which had been lodged against him before Mayiladuthurai Police Station in F.I.R.No.473/2023, on 06.07.2023. The Police had initiated this complaint at the instance of the classmate of the defendant. The petitioner was charged for the alleged offences under Section 294(b) of the IPC read with Section 67 of the Information Technology Act, 2000. He moved this Court for anticipatory bail in CrI.O.P.No.16732 of 2023, which was granted on 24.08.2023. He pointed out to this Court during the course of that proceedings, the plaintiff herein had demanded a sum of Rs.2,00,000/- in order to settle the matter once and for all. In order to avoid any complications, he had transferred a sum of Rs.50,000/- in cash to the defacto complainant and Rs.38,000/- by Google pay to the plaintiff.

6. Taking note of these facts, this Court granted anticipatory bail to the civil revision petitioner and further directed the Bar Council of Tamil Nadu and Pondicherry to initiate action as against the respondent/plaintiff.



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7.Narrating these circumstances, learned counsel for the petitioner submits that the suit is an abuse of process of law and deserves to be struck off.

8.In so far as Tr.C.M.P.No.1289 of 2024 is concerned, the learned counsel for the petitioner argues that no advocate is willing to appear on behalf of the petitioner/defendant in Mayiladuthurai on account of the fact that the plaintiff himself is a practising lawyer at Mayiladuthurai. He points out that the President of the Mayiladuthurai Bar Association is supporting the plaintiff and he has ensured that no counsel will enter appearance on behalf of the defendant to contest the present suit.

9.Per contra, Mr.R.Anburaj states that the issue presented before the Court is whether the suit based on a promissory note can be struck off. He states that the promissory note is true and genuine and in order to create a case, a reference is being made to the criminal and Bar Council proceedings. He has no objection, if the suit is transferred to a place which is convenient to both the parties. He asserts that his client has not influenced anyone, let alone, the president of the Mayiladuthurai Bar



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Association. He adds that no Advocate has refused to appear for the defendant at Mayiladuthurai and it is the case that has been projected before the Court in order to gain sympathy.

10. I have carefully considered the submissions of Mr.V.Subramanian and Mr.R.Anburaj. I have gone through the entire records.

11. The suit is one on a promissory note. The defendant is not disputing the signature on the promissory note. He is coming up with the defence that the plaintiff had demanded money for the settlement of the criminal case in F.I.R.No.473 of 2023 on the file of the Mayiladuthurai Police Station and the Bar Council proceedings initiated pursuant to the orders of this Court.

12. In order to invoke under Article 227 of the Constitution of India to strike off a plaint, there should not be disputed question of facts. Whether the plaintiff had in fact paid a sum of Rs.8 lakhs to the defendant or whether the promissory note came about in the



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circumstances as pleaded by Mr.V.Subramanian are all matters which have to be gone into only at the time of trial. Therefore, I am not inclined to strike off the suit.

13. However, in agreement with Mr.V.Subramanian that if the proceedings carry on in Mayiladuthurai, considering the fact that the plaintiff is a lawyer, the defendant might face difficulties. The defendant is a resident of Chinna Salem and the plaintiff is a resident of Mayiladuthurai town. Therefore, I am inclined to transfer the suit to the Court which is mid point between Mayiladuthurai and Chinna Salem. The town of Virudhachalam is well connected to both Chinna Salem as well as Mayiladuthurai and is situated on the National Highways. Both the parties will not face difficulty to travel to Virudhachalam for the purpose of deposing their respective cases in the suit.

14.In the light of the above discussions, Tr.C.M.P.No.1289 of 2024 is allowed and C.R.P.(PD)No.2868 of 2024 is dismissed on the following directions:

(i) O.S.No.15 of 2024 on the file of the District and Sessions Court



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at Mayiladuthurai is withdrawn and transferred to the file of the III  
Additional District Court at Virudhachalam.

(ii) Learned III Additional District Judge at Virudhachalam shall take up the suit from the stage at which it was transferred to him. To make it abundantly clear, *de nova* trial need not be conducted.

(iii) Needless to add, it is open to the defendant to raise all the pleas available to him including the plea that the promissory note is not supported by consideration and had come about only on account of the dispute that has arisen between him and the defacto complainant in F.I.R.No.473 of 2023, namely, Ms.Geetha. No costs. Consequently, connected miscellaneous petitions are closed.

**10.12.2024**

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

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To

- 1.The District and Sessions Judge at Mayiladuthurai.
- 2.III Additional District Court at Virudhachalam.



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**V. LAKSHMINARAYANAN,J.**

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