



C.R.P.No.3127 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.3127 of 2023
and
Civil Miscellaneous Petition No.19369 of 2023

V. Thulasimani

... Petitioner

Vs

1. P. Narayanasamy

2. G. Partheeban

3. R.Sundaravadivel

4. R. K.Vellaichamy

... Respondents

Common Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set-aside the fair and decreetal order of the I Additional Subordinate Court, Coimbatore, dated 20.06.2023 in I.A.No.1 of 2019 in O.S.No.1151 of 2018.

For Petitioner : Mr .Palaniyappan,
for V. Viswanathan



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For respondents : Mr. A.E.Ravichandran,
for R1
: R2 to R4 given up

ORDER

Challenging the order of dismissal passed by the learned I Additional Subordinate Judge, Coimbatore, the present Civil Revision Petition has been filed.

2. The learned counsel for the petitioner submitted that the petitioner is the 4th defendant and the first respondent is the plaintiff and other respondents are defendants in O.S.No.1151 of 2018 on the file of the I Additional Subordinate Court, Coimbatore. The suit was filed for recovery of a sum of Rs.7,04,818/- with subsequent interest based upon the loan deed executed by the defendants 1 to 3, and the petitioner/4th defendant is the wife of the third defendant. This petitioner is not a party to the loan deed executed by the defendants 1 to 3. Therefore, there is no cause of action against the



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petitioner/4th defendant to file the suit against him along with other defendants.

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Hence, he filed a petition in I.A.No.1 of 2019 for rejection of plaint, which was dismissed by the Trial Court by passing the impugned order and thus, prays to allow the revision.

3. The learned counsel appearing for the first respondent/plaintiff contended that in paragraph number 4 of the plaint, it is stated that the defendants 1 to 3 executed a deed of loan infavour of the plaintiff on 26.08.2015 and since, amount has not been paid as promised, the 3rd defendant handed over the title deed of the property, which is standing in the name of the 4th defendant, as security for return of the said loan amount with interest. Therefore, the property of the 4th defendant was given as a security of the loan of the defendants 1 to 3 and hence, he was impleaded as a party and there is a cause of action. Hence, there is no ground for rejection of plaint and there is no reason to interfere with the impugned order and thus, seeks to dismiss the revision.

4. I have considered the matters in the light of the submissions made by



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the learned counsel on both sides and perused the materials available on records carefully.

5. On perusal of the material, the fact reveals that the first respondent/plaintiff had filed the suit in O.S.No.1151 of 2018, on the file of the I Additional Subordinate Court, Coimbatore for recovery of a sum of Rs.7,04,818/- with subsequent interest based upon the loan deed executed by the defendants 1 to 3. In the said suit, the petitioner/4th defendant, who is the wife of the third defendant, was impleaded as 4th defendant since the property given as security by the 3rd defendant stands in her name. Against which, the petitioner/ 4th defendant filed I.A.No.1 of 2019 for rejection of plaint on the ground that there is no cause of action against her and the loan transaction is between the plaintiff and the defendants 1 o 3 alone. The Trial Court, by an order dated 20.06.2023 dismissed the said petition. Aggrieved over the same, the present revision has been filed.

6. On perusal of the plaint, it is noticed that there is a loan transaction between the defendants 1 to 3 and the plaintiff. Paragraph no.4 of the plaint



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runs as follows :-

" The plaintiff submits that taking pity, he lent the said sum by cash, when the defendants 1 to 3 executed a deed of loan in favour of the plaintiff on 26.08.2015. But, contrary to the said promise made by the defendants 1 to 3, no interest was paid to the plaintiff till date nor the principal was returned. But, when the defendants no.1 to 3 miserably failed to keep up their written promise of paying the interest and returning the principal within four months, the Title Deed in respect of tiled house property at No.3, Ward No.6, T.S.No.1479/1H, North Sowrastripuram @ Sowrastra Colony at Dindugal Town standing in the name of the 4th defendant, and registered as document No.1319/2013 in the office of the Joint I Sub Registrar, Dindugal, was handed over to the plaintiff as security for the return of the said loan with interest. The said deed of loan dated 26.08.2015 and the sale deed dated 31.05.2013 in the name of the 4th defendant



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is herewith produced as document nos.1 & 2."

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It is averred that the petitioner property has been given as security for return of the loan with interest. There is no avernment what is the document obtained for getting the title deed as a security for the loan transaction between the plaitniff and the defendnatns 1 to 3 and further, what is the legal formalities followed for taking the security of the petitioner/4th defendant's property, has to be adjudicated at the time of the Trial. It is not in dispute that the defendants 1 to 3 executed a deed of loan in favour of the plaintiff on 26.08.2015 and obtained a sum of Rs.4,10,000/-. Under these circumstances, the plaint cannot be rejected on the request of the petitioner/4th defendant only on the ground that she is not a party to the loan deed executed by the defendants 1 to 3. Therefore, I find no infirmity in the impugned order and no merit in this revision and this revision is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs. The learned I Additional Subordinate Judge, Coimbatore is directed to dispose the suit in O.S.No.1151



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of 2018 as early as possible.
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Index: yes/no
Internet:yes/no
mrp

To

I Additional Subordinate Judge,
I Additional Subordinate
Coimbatore.



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V. SIVAGNANAM, J.

mrp

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