



C.R.P.Nos.4077 and 4078 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.Nos.4077 and 4078 of 2024
and C.M.P.Nos.22417 & 22420 of 2024

K.Pramod

... Petitioner in both C.R.Ps.

1 Prof.S.Suresh
Honorary Secretary The Voluntary Health
Services Rajiv Gandhi Salai T.T.T.I Post
Taramani Chennai-600113

2 The Voluntary Health Services
Rep. By Dr. Joseph D Williams Director-
projects Rajiv Gandhi Salai T.T.T.I Post
Taramani Chennai-600113

... Respondents in both C.R.Ps.

Prayer : Civil Revision Petitions under Article 227 of the Constitution of India to set aside the order dt. 14.06.2024 passed by the Honble XIXth Additional City Civil Court Chennai in IA Nos.4 and 5 of 2023 in OS No.6664/2019.

For Petitioner : Mr.T.R.Sathiya Mohan

ORDER

The petitioner is the plaintiff in the suit. He presented O.S.No.6664 of 2019 on the file of the XIX Additional City Civil Court seeking for recovery of money.



C.R.P.Nos.4077 and 4078 of 2024

2. It is the case of the plaintiff that the defendants had not paid him salaries month on month and it had left behind arrears from June 2018 to December 2018 and a solitary month of March 2019. Hence, he sought for the relief of recovery of Rs.24,43,735/- being the arrears of salary together with interest at the rate of 15% per annum.

3. Pending the litigation, the plaintiff pleaded that if the bank accounts are produced before the Court, it would show that the defendants are not in the habit of settling the salary dues month on month. That petition came to be dismissed by the learned trial Judge and a civil revision petition was preferred to this Court. I allowed the revision directing the Indian Overseas Bank to produce the accounts of the second defendant so that a clear picture can be presented before the Court as regards the allegation of the plaintiff on the defendants.

4. Mr.Sathiyamohan would submit that the accounts have also been produced. Subsequent to the production of the accounts, the plaintiffs took out yet another application under Order XIV Rule 27 praying for summons to be issued to examine one B.Kamalakar, Controller (Finance) of the second defendant. This application was received in I.A.Nos.4 and 5 of 2023. Notice was issued in the said application and it was resisted by the defendants. The defendants argued that the application to summon the Controller (Finance) is only for the purpose of delaying the adjudication in the suit.



5. The learned trial Judge, considering the submissions made by both sides, dismissed the said petitions. Hence this revision.

6. Mr.T.R.Sathiyamohan argues that if the Controller (Finance) of the second defendant is examined, it will show that the salaries had not been paid month on month and this would prove the case of the plaintiff. He pleads that the order of the learned trial Judge is erroneous since he has not permitted the plaintiff sufficient opportunity to prove the case.

7. I have carefully considered the submissions of Mr.Sathiya Mohan and have gone through the records.

8. It is trite that the plaintiff cannot summon an adversarial party to depose on his side in a civil proceeding. If the defendant does not enter the witness box, the plaintiff can plead before the Court to draw an adverse inference as against the lack of evidence that has been given by the defendant. For the very fact the defendant is not letting in evidence or is not producing a witness, it is not open to the plaintiff to summon the said witness to be examined on his side. Such a practice has been decried by the Courts right from the time of Privy Council and to my knowledge, this position of law continues to remain the same. In case the plaintiff requires, he can always summon the Bank Manager to depose, but not the Controller (Finance) of the defendant.



C.R.P.Nos.4077 and 4078 of 2024

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9. With the above observation, I do not find any reason to interfere with the impugned order passed by the learned trial Judge. The civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

04.10.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The XIX Additional Judge
City Civil Court
Chennai.



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C.R.P.Nos.4077 and 4078 of 2024

V. LAKSHMINARAYANAN, J.

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C.R.P.Nos.4077 and 4078
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