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CRP.No. 626 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

Civil Revision Petition No. 626 of 2023

and

Civil Miscellaneous Petition No. 4939 of 2023

M.Saravanan

...Petitioner

versus

1.N. Gowthaman

2.Shabeer Ahmed

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal Order dated December 6, 2022 passed in I.A.No.11 of 2022 in O.S.No. 34 of 2020 on the file of the Additional District Judge, Dharmapuri.

For Petitioner : Mr.C.Munusamy
For RR1&2 : Mr.M.S. Gokulraj
For M/s. P.V. Associates



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ORDER

This Civil Revision Petition has been filed against the Order dated December 6, 2022 passed in I.A.No.11 of 2022 in O.S.No. 34 of 2020 on the file of the 'Additional District Judge, Dharmapuri', [hereinafter “Trial Court” for brevity].

2. The revision petitioner herein is the defendant and the respondents are the plaintiffs in the Original Suit proceedings.

3. The learned Counsel for the revision petitioner has submitted that the respondents/plaintiffs filed the Suit for recovery of money. He has further submitted that trial has commenced and both sides' evidence was closed. When the Suit was posted for Judgment, the respondents/plaintiffs filed an Interlocutory Application in IA.No.11 of 2022 under Section 151 of Code of Civil Procedure, 1908 seeking to re-open the case to examine



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one of the witnesses to Suit promissory note. After hearing both sides, the

Trial Court allowed the said Interlocutory Application on payment of cost of Rs.5,000/-. He has further submitted that after completion of trial, when the matter was posted for Judgment, the respondents/plaintiffs filed this application only with a view to fill up the *lacunae* in this case. He has further submitted that the Defendant's case is that the alleged witness sought to be examined by the respondents/plaintiffs is the sole reason for the Suit. Hence, he has prayed to allow the above Civil Revision Petition.

4. Per contra, learned Counsel for the respondents/plaintiffs has submitted that the respondents/plaintiffs wanted to examine the Proprietor of R.K.Agency Petrol Bank, namely, Ramakrishnan, who is one of the witnesses in the promissory note. The Trial Court after hearing both sides, exercised its discretion lawfully. Hence, he has prayed to dismiss the above Civil Revision Petition.



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5. This Court has considered both sides submissions and perused the materials available on record.

6. Perusal of the records, reveals that the respondents/plaintiffs filed the Suit in O.S.No.34 of 2020 on the file of Trial Court for recovery of money. After completion of trial, when the matter was posted for Judgment, the respondents/plaintiffs filed I.A.No. 11 of 2022 praying to re-open the case and examine the witness to the Suit promissory note. The Trial Court, considering the facts and circumstances of the case, and with a view to give one more opportunity to the respondents/plaintiffs, allowed the application on payment of cost of Rs.5,000/-. Hence, this Court does not find any infirmity or illegality in the Order passed by the Trial Court and there is no merit in this Revision and the same is liable to be dismissed.



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7. Further, this Court was informed that in pursuance of the

Order passed by the Trial Court in the said application, the said witness was examined in Chief as PW3 by the plaintiffs and that the case is currently posted for Cross examination of the said witness. The Trial Court shall afford an opportunity to the revision petitioner/defendant to cross examine the said witness. Both sides are directed to co-operate with the Trial Court for speedy disposal of the Suit.

8. Accordingly, this Civil Revision Petition is dismissed. In view of the facts and circumstances of the case, there shall be no order as to costs. The trial Court shall dispose of the Suit in O.S.No.34 of 2020 as early as possible, preferably within 45 days from the date of receipt of a copy of this Order. Consequently, connected C.M.P. No. 4939 of 2023 is closed.

11.11.2024

MSM

Speaking Order : Yes/No



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To
The Additional District Judge,
Dharmapuri.



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R. SAKTHIVEL, J

MSM

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