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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

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THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN, J.

C.R.P.(PD).Nos.4633 & 4637 of 2024
and
C.M.P.Nos.25910 & 25912 of 2024

A.Ganesan ... Petitioner in both CRPs

..Vs..

1.D.Sivaraman

2.A.Gizele ... Respondents in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order and decree dated 03.10.2024 in I.A.Nos.7 and 8 of 2024 in O.S.No.7751 of 2021, on the file of the XVII Additional City Civil Court, Chennai.

For Petitioner in both CRPs : Mr.R.Rajarajan

For Respondents in both CRPs : Mr.G.Balamanikandan

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COMMON ORDER

This Civil Revision Petition arises against the order dated 03.10.2024 passed by the learned XVII Additional Judge, City Civil Court, Chennai in I.A.Nos.7 and 8 of 2024 in O.S.No.7751 of 2021.

2. O.S.No.7751 of 2021 is a suit for recovery of a sum of Rs.71,38,000/- together with interest at the rate of 24% per annum, for Rs.41,50,000/- being the principal, till the date of realization.

3. The suit has been presented on the foot of a promissory note. It is said to have been executed on 27.10.2018. Summons were served on the defendants.

4. The defendants took a plea that the plaintiff had forged and fabricated the suit promissory note and that, it is the plaintiff, who has to pay the defendants a sum of Rs.26,71,925/-. It was further pleaded that the defendants did not purchase any property in the year 2018, for them, to

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borrow the alleged sum of Rs.41,50,000/- from the plaintiff.

5. A careful reading of the written statement shows that nowhere does it state that the defendants have taken a plea that the plaintiff does not have wherewithal, to pay the sum, covered under the promissory note. On these pleadings, the parties proceeded to trial.

6. During trial, the learned counsel for the defendants, while cross examining the plaintiff to put a suggestion, whether the alleged amount claimed under the suit promissory note had been disclosed in the Income Tax Returns. The plaintiff is said to have answered it in the affirmative. Therefore, an application was filed in I.A.No.6 of 2024 seeking for production of the Income Tax Returns. The said application came to be dismissed. The defendants have not preferred any revision against the said order.

7. Subsequently, applications were filed, to reopen and to recall the plaintiff for the purpose of examining the plaintiff, on the Income Tax Returns. This was stoutly opposed by the plaintiff pleading that as I.A.No.6

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of 2024 had been dismissed, the present petitions are not maintainable. Further, the plaintiff pleaded that Income Tax records are not essential for the purpose of taking decision in the suit.

8. The learned Trial Judge, after hearing both sides, allowed the application, finding that, since the Income Tax Returns had not been marked by the plaintiff, an opportunity should be granted to the defendants to examine the plaintiff on those records. Hence, the Civil Revision Petition at the instance of the plaintiff.

9. I heard Mr.R.Rajarajan for the civil revision petitioner and Mr.G.Balamanikandan for the respondents.

10. The counsels reiterated the submissions that there had been made before the trial Court.

11. I have gone through the records and I have carefully analyzed the submissions of either side.

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12. This is a simple suit for recovery of money on the foot of a promissory note. The defendants deny the document as an act of forgery and fabrication. As pointed out above, at no point of time, the defendants took a plea that the plaintiff has no wherewithal, for advancing the said amount.

13. If such be the situation, then, the question of production of Income Tax records, in order to prove the financial standing of the plaintiff does not arise. In any event, the learned Trial Judge has dismissed I.A.No.6 of 2024, calling upon the plaintiff to produce the Income Tax records.

14. For the mere fact, that the plaintiff has produced the Income Tax records, does not mean, it gives a right to the defendants to cross examine the plaintiff on unmarked documents. The defendants have not challenged the order dismissing the application to produce the Income Tax records.

15. What the defendants have not been able to get directly by virtue of an order in I.A.No.6 of 2024, they have managed to get it indirectly by

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getting the application allowed in I.A.Nos 7 and 8 of 2024. Therefore, I am inclined to interfere with the order of the XVII Additional City Civil Court, Chennai.

16. These Civil Revision Petitions stand allowed. The order dated 03.10.2024 in I.A.Nos.7 and 8 of 2024 by the XVII Additional Judge, City Civil Court, Chennai, is set aside. The applications will stand dismissed. The learned Trial Judge is requested to take note of the fact, that the suit is pending for 4 years. Being a simple money suit, the learned Judge is requested to expedite the suit and dispose it of an early date. No costs. Consequently, the connected miscellaneous petitions stands closed.

19.11.2024

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Index : Yes/No
Internet : Yes/No
Neutral Citation Case: Yes/No

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