



C.R.P.No.5019 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5019 of 2024 &
CMP.No.28178 of 2024

Abdul Naseer

.. Petitioner

Versus

Jagir Hussain

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed by the Additional District Court, Hosur dated 21.10.2024 made in I.A.No.3 of 2024 in O.S.No.497 of 2022.

For Petitioner : Mr.J.Pradeep

ORDER

This civil revision petition challenges the order passed by the learned Additional District Judge, Hosur in I.A.No.3 of 2024 in O.S.No.497 of 2022 dated 21.10.2024.



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2. O.S.No.497 of 2022 is a suit for recovery of money on the foot of a promissory note. It was presented as an under Chapter suit. The defendant entered appearance and took out an application for leave to defend. The leave to defence application was allowed on the condition that the plaintiff will deposit a sum of Rs.7,00,000/-. The amount was deposited and the suit was converted into an ordinary suit.

3. Thereafter, the defendant has presented his written statement. The primary and principal plea in the written statement is that the promissory note is a fabricated one and it was made ready by the plaintiff for the purpose of grabbing money from the defendant.

4. Issues were framed, the parties went for trial and the plaintiff has completed his examination.

5. The defendant has also commenced his examination and has examined DW1 and DW2. When it was adjourned for the examination of DW3 one Abdul Kuthus. At that stage, the defendant presented an application under Order VIII Rule 9 of the Code.



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6. The plea of the defendant was that prior to the suit, a police complaint had been lodged by the plaintiff against the defendant before the jurisdictional police in Krishnagiri District. At that time, the promissory note had not been produced before the police. The defendant relied upon an admission made by PW1 to the effect that the promissory note had not been produced before the Police. Hence, he filed an application for additional written statement.

7. The learned Trial Judge received a counter from the plaintiff and proceeded to dismiss the petition on the ground it is a delaying tactic. Hence, this revision.

8. I heard Mr.J.Pradeep for the civil revision petitioner.

9. Mr.J.Pradeep, relying upon the judgment of this Court in *Thiyagrajan v. Manivannan, (2007) 1 LW 429*, points out that an application under Order VIII Rule 9 deserves widest possible latitude and the dismissal of the petition by the Trial Court is erroneous. He adds the



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trial court will not permit the defendant to raise a plea that, the plaintiff did not produce the document before the Police, since there is no plea in the original written statement. On these grounds, he pleads that the order of the trial court requires to be revised.

10. I have carefully considered the submission of Mr.J.Pradeep.

11. As pointed out above, the principal defence of the defendant is that the document is fabricated. In addition, PW1 has also made a statement that he has not produced the promissory note before the jurisdictional police, during or after, the presentation of the police compliant. When such evidence is on record, the fear of Mr.J.Pradeep that the court might not take into consideration the plea of the defendant that the document is fabricated is unfounded.

12. A perusal of the written statement shows that, in more than one place, the defendant has pleaded that the document is fabricated. In fact, in paragraph Nos.12 and 18 of the written statement, the defendant had



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pleaded that the document is not only fraudulent, but also a result of fabrication.

13. When a specific plea has been taken, I am certain that the trial court, at the time of marshalling of evidence, will consider this plea and at the time of rendering the judgment in the suit.

14. I agree with Mr.J. Pradeep that Order VIII Rule 9 of the Code must be given liberal interpretation. However, the said provision will not come to the assistance of the defendant to reiterate the defence that he has already taken earlier. The plea, that it is a fabricated document, is already on record. It is open to the defendant to point out to the court that this is his defence and he is entitled to get the suit dismissed on that plea. It does not require reiteration, some more reiteration and further reiteration by way of an additional statement.

15. In view of the above discussion, I do not find any reason to interfere with the order of the trial court. This civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.



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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

The Additional District Court, Hosur



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V.LAKSHMINARAYANAN, J.

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