IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).Nos.4933 & 4934 of 2024
and C.M.P.Nos.27790 & 27794 of 2024

Anandhan .. Petitioner (in both cases)

Vs.

Palani .. Respondent (in both cases)

Common Prayer: These Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal orders in I.A.No.147 of 2024 in O.S.No.10 of 2024 and in I.A.No.146 of 2024 in O.S.No.9 of 2024 dated 13.09.2024 on the file of the Principal District Judge, Kallakurichi, and thereby allow these revisions.

(In both cases):

For Petitioner : Mr.D.Vasanth

COMMON ORDER

These Civil Revision Petitions challenges the order of the learned Principal District Judge, Kallakurichi, dated 13.09.2024 in I.A.No.147 of

2024 in O.S.No.10 of 2024 and in I.A.No.146 of 2024 in O.S.No.9 of 2024.

2.O.S.No.9 of 2024 & O.S.No.10 of 2024 were originally presented before the learned Principal District Judge at Villupuram as O.S.No.7 of 2018 & O.S.No.8 of 2018 respectively. Even when the suit was pending there, written statement and additional written statements were filed and pleadings were completed. After the creation of the District Court in Kallakurichi, both the suits stood transferred to the Principal District Court at Kallakurichi and re-numbered as aforesaid.

3.The suits are for recovery of money based on the promissory notes. According to the plaintiff, the defendant had received money and had defaulted in repayment, leaving no other option than to file a suit for recovery for a sum of Rs.10,00,000/- together with interest at Rs.1,94,000/-.

4.The plea of the defendant is that there were money lending transaction between the plaintiff and defendant and the defendant has discharged the entire sum.

5.Issues were framed and parties went for trial. Plaintiff has completed his examination and the suit was posted for defendant's evidence. At that stage, the defendant took out applications under Order XI Rule 14 of the Code, to summon the entire income tax records of the plaintiff from 2015 to 2018. These applications were received as I.A.No.146 of 2024 & I.A.No.147 of 2024. After receipt of a counter from the plaintiff, the learned Principal District Judge, proceeded to dismiss the said petition. Hence, this revision.

6.I heard Mr.D.Vasanth in support of the civil revision petitioner.

7.Mr.D.Vasanth pleads that the plaintiff is an income tax assessee and he had admitted to this fact during the course of evidence. According to him, under Section 269SS of the Income Tax Act, no person can transfer the sum in excess of Rs.20,000/-, by way of cash. He points out it is the plea of the defendant that the alleged entire transaction by the plaintiff is fraudulent and it is based on filling up of empty promissory notes which had been given as security for a previous loan of Rs.9,00,000/-. Hence, the order should be set aside and there should be a direction to produce the income tax records of the plaintiff.

8.I have carefully considered the submissions of Mr.D.Vasanth.

9.The execution of the document by the defendant in favour of the plaintiff is not in dispute. It is the case of the defendant that the documents had been executed in blank and had been handed over to the plaintiff as a security. The written statement proceeds that, in order to cheat the defendant, the plaintiff had filled up the blanks and presented the suit for recovery of a sum of Rs.11,94,000/-. The defendant also concedes that the plaintiff had earlier given him a loan of Rs.9,00,000/- which he had discharged.

10.Even if the loan that had been given by the plaintiff to the defendant was in cash and was in violation of the Income Tax Act, the said Act does not bar the plaintiff from filing a suit for recovery of money for the amounts due. If the plaintiff had violated the Income Tax Act, I am sure the Income Tax Authorities will be vigilant enough to proceed against the plaintiff and it does not require the external struts that will be provided by the plaintiff to take action against the plaintiff.

11.The document that is sought for in terms of Order XI Rule 14 are not essential for the purpose of determining the liability of the defendant towards the plaintiff. Only such documents which will assist the Court in rendering a correct judgment are necessary to be produced under Order XI Rule 14. The fact that the plaintiff has defaulted in payment of income tax, will not in any way deter the Court from decreeing the suit, if it comes to a conclusion that the defendant in fact owned the money to the plaintiff. The documents being unnecessary, I do not find any necessity to take a different view than the view taken by the learned Principal District Judge, Kallakurichi.

12.In the result, these Civil Revision Petition are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

17.12.2024

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

V.LAKSHMINARAYANAN, J.

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To

The Principal District Judge,
Kallakurichi.

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