



C.R.P.(PD) (MD).No.589 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.589 of 2019

and

C.M.P(MD) No.2911 of 2019

R.Sivakumar

... Petitioner/Petitioner/Plaintiff

-vs-

1. M.S.K.Muruganantham
@ Kulanthaivel (died)

2. Viswanathan

3. Sankarakumar

4. M.Muthulakshmi

5. M.Muthu Mari

6. M.Rathnavelu

... Respondents/Respondents/
Defendants 1 to 6

7. Chellammal

... Proposed Respondent

(7th Respondent is brought on record as LRs of the deceased 1st Respondent vide order of this Court dated 24.07.2024 made in C.M.P(MD) No.5562 of 2022 in C.R.P(MD) No.589 of 2019.)



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 27.09.2018 in I.A.No.427 of 2016 in O.S.No.1154 of 2011, on the file of the Additional District Munsif Court, Madurai Town.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.P.Rajagopalan – for R2 and R3

: Mr.M.S.Parthiban – for R7

: R1 – died

: No appearance – R4 to R6

ORDER

The present Civil Revision Petition has been filed by the plaintiff in a suit for permanent injunction, challenging the dismissal of an application filed under Order 16 Rule 1(2) of C.P.C.

2. The revision petitioner as the plaintiff has filed the suit in O.S.No. 1154 of 2011, before the Additional District Munsif Court, Madurai Town, for the relief of permanent injunction, on the ground that the tenants are the defendants. The defendants have filed a written statement stoutly denying the



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landlord/tenant relationship and also in possession of the plaintiff.

3. When the suit was posted for cross examination of P.W.1, the plaintiff had filed I.A.No.427 of 2016, to summon the Manager of South Indian Bank, Silaiman Branch, Madurai, to establish the fact that he had taken two fixed deposits in the name of the first defendant and also to prove the fact that he has been regularly depositing a sum of Rs.500/- as monthly rent in a bank account maintained in the said Bank. This application was resisted by the defendants contending that there is no landlord/tenant relationship and they have also denied the receipt of any advance amount.

4. The trial Court, after considering the submissions on either side, has arrived at a finding that the plaintiff is yet to produce the list of witnesses and he is always at liberty to get certified copy from the bank officials establishing the transactions between the petitioner and the respondents and therefore, the summoning of the Bank Manager is not necessary, for disposing the suit. Challenging the said order, the present Civil Revision Petition has been filed.



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5. According to the learned counsel appearing for the revision petitioner, only by summoning the Bank Manager they could establish the fact that two fixed deposits have been taken in the name of the first defendant which reflect the advance amount and also the landlord/tenant relationship.

6. Per contra, the learned counsel appearing for the respondents herein has contended that the application has been filed after five years from the date of filing of the suit, only to drag on the proceedings. When the landlord/tenant relationship itself is denied, it is for the plaintiff to establish the same by filing the certified copies, records, Bank statements from the bank instead of examining the Bank Manager.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. According to the petitioner/plaintiff, he is in possession of the suit schedule property as a tenant of the defendants. It is for the plaintiff to establish his possession in the capacity as a tenant in the suit schedule property. In case, if the payment of advance or payment of rent are through



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bank transactions, it is always open to the plaintiff to get statement of accounts from the concerned bank and mark them as one of the documents on their side. Therefore, it is not necessary to summon the Bank Manager to give evidence on their behalf. The trial Court was right in dismissing the said application and there are no merits in this Civil Revision Petition.

9. Accordingly, this Civil Revision Petition stands dismissed. Considering the fact that the suit is pending from the year 2011 onwards, the trial Court is directed to dispose of the suit in O.S.No.1154 of 2011 on or before **31.12.2024**. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

24.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Additional District Munsif Court,
Madurai Town.

R.VIJAYAKUMAR,J.

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