



C.R.P(MD)No.3036 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM

**THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.3036 of 2024
and
C.M.P(MD)No.17286 of 2024

P.Palraj

... Petitioner

Vs.

1.S.Ravithiruvambalam

2.R.Lathashanmugam

3.R.Anandh Subramaniyan

4.R.Valli Nayagam

5.S.Kuthalam

6.K.Selvamala

7.S.Sankar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in



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I.A.No.5 of 2024 in O.S.No.296 of 2021, dated 01.10.2024 on the file of the III Additional District and Sessions Judge, Tirunelveli therein, by allowing the Civil Revision Petition.

For Petitioner : Mr.S.Satheesh Kumar

ORDER

The present Civil Revision Petition is preferred against the order passed in I.A.No.5 of 2024 in O.S.No.296 of 2021, dated 01.10.2024.

2. The revision petitioner as plaintiff filed the above suit in O.S.No.296 of 2021 for specific performance. Pending suit, the petitioner filed an application in I.A.No.5 of 2024 under Order XVI, Rule 1 Clause 3 of the Civil Procedure Code, 1908 for examination of additional witness. In the said application, it is averred that the suit sale agreement is a fraudulent document and that on the date of the said agreement (i.e.,) on 04.06.2022, the petitioner went to meet his Counsel and the same can be established by the communication sent by the said Counsel to the petitioner. Hence, the said document and evidence of the Counsel is very well relevant to support the case of the petitioner that he never signed the



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alleged agreement. The said application was resisted on the side of the respondent stating that it is a privilege communication and therefore, the same cannot be marked. The Trial Court referring to Section 126 of the Indian Evidence Act, 1872, dismissed the said application stating that since it is a 'privilege communication', the same cannot be permitted to be marked on the side of the petitioner. Aggrieved by this, the present revision is preferred.

3. The learned Counsel appearing for the revision petitioner would submit that as per Section 126 of the Indian Evidence Act, there is a bar to disclose any communication made to a Counsel by his client without the consent of the client. But the present case is different. The said communication by the learned Counsel to the petitioner is not a privilege communication and it is a communication sent to the petitioner by his Counsel giving appointment to meet him. Therefore, the order passed by the Trial Court is liable to be set aside.



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4. Heard the learned Counsel for the petitioner and perused the materials available on record.

5. On perusal of records, it is seen that the petitioner intend to mark a document which is a communication sent by the Counsel to the petitioner herein giving appointment for the petitioner to meet him on a particular date. The Trial Court rejected the petition on the ground that the said communication cannot be disclosed as it is barred under Section 126 of the Indian Evidence Act, 1872, since it is a privileged communication between the client and the learned Counsel. The petitioner intend to mark the document to prove that he had an appointment with his Counsel on the date of the alleged sale agreement and therefore, he could not have signed the agreement. Such communication cannot be relied upon since it can be easily fabricated for the purpose of the case. The petitioner has to prove his case only by concrete evidence. Therefore, the order passed by the Trial Court do not warrant any interference by this Court. Accordingly, this Civil Revision



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Petition stands dismissed. There shall be no order as to costs.

Consequently, connected Miscellaneous Petition stands closed.

09.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The III Additional District and Sessions Judge,
Tirunelveli.



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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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