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OSA.No.126 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.04.2025

PRONOUNCED ON : 24.04.2025

CORAM

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH
and
THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

Original Side Appeal No.126 of 2025
and
CMP.No.7721 of 2025

Mr.R.Avudaiappan

... Appellant

-Versus-

Mr.B.Venkateswaran

... Respondent

Original Side Appeal filed under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent Act, praying to set aside the fair and decreetal order dated 11.02.2024 passed by Hon'ble Dr.Justice G.Jayachandran in application No.6265 of 2024 in C.S.No.161 of 2023.

For Appellant : Mr.S.Malarmannan

For Respondent : Mr.S.Pushpakaran



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JUDGMENT

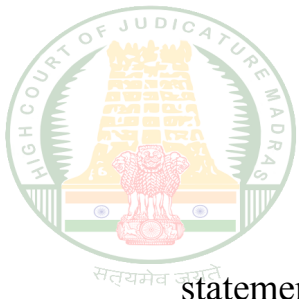
*(Judgment of the Court was delivered by **C.KUMARAPPAN, J.**)*

The instant OSA is arising against the order of dismissal passed in the application filed under Order VIII Rule 1A(3) of CPC.

2. The appellant herein is the applicant and the defendant before the learned Single Judge. The respondent herein is the respondent and the plaintiff before the learned Single Judge.

3. The brief facts which give rise to the instant OSA is as follows:-

(a) The respondent herein has filed a suit for recovery of a sum of Rs.1,03,37,977/- with future interest on the basis of the promissory note said to have been executed by the appellant herein. In the said suit, the appellant has filed written statement disputing the plaintiff claim. In the Trial, after examining the plaintiff side evidence, when the appellant was about to depose before the Court, he has come up with an application seeking leave of the Court to file the petition mentioned document as an additional document. The learned Single Judge has considered the said application and dismissed the same on the ground that there are no required pleadings in the written



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statement, so as to grant leave to the appellant herein. Aggrieved with the said order, the appellant is before this Court.

4. Heard Mr.S.Malarmannan, learned counsel appearing for the appellant and Mr.S.Pushpakaran, learned counsel appearing for the respondent.

5. The learned counsel for the appellant would vehemently contend that in the written statement, they have pleaded that they would produce the promissory note and other records during trial, to disclose the payment of loans to the various third parties, and that the petition mentioned document has been traced out a week before filing of the application. It is his further submission that there would be no prejudice caused to the respondent while granting leave to the appellant herein to file the documents in evidence. The learned counsel would also contend that if the document is not received, it would seriously prejudice his case. Hence, prayed to allow this OSA.

6. Per contra, the learned counsel for the respondent would contend that the petition mentioned documents are fabricated and have been prepared



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as an after thought. It was further contended that there are no pleadings in the written statement in support of the petition mentioned documents. Hence, prayed to dismiss the OSA.

7. We have given our anxious consideration to either side submissions.

8. The short point to be answered in the present appeal is, whether a leave can be granted to file the additional documents. The learned Single Judge has rejected the application on the sole ground that there should have been pleadings to support the defendant's case and such pleadings must be specific. It is the further observation of the learned Single Judge that since the pleadings are very vague, there are no foundation to seek leave for introduction of the additional documents. As rightly observed by the learned Single Judge, the pleadings of the appellant herein is vague. But, on the ground of vagueness of the pleadings, the denial of leave in filing the document at the very threshold would nothing but prejudging the merits of the matter, which would cause serious prejudice to the parties.

9. At this juncture, it is appropriate to refer the judgment relied by the learned counsel for the appellant in ***Sugandhi (Dead) by Legal***



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Representatives and another Vs. P.Rajkumar rep. by his Power Agent

Imam Oli reported in ***(2020) 10 SCC 706***, wherein, the Hon'ble Supreme Court held that the procedure is handmaiden of justice and that the procedural and technical hurdles should not be allowed to come in the way of the Court while doing substantial justice. For ready reference, we deem it appropriate to extract paragraph 9 of the above judgment:-

“9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3).”

10. In the present case, the appellant herein has stated in his affidavit that he has traced out the petition mentioned document a week before filing the application. The only contention of the respondent is that those documents are fabricated. It is well settled principle of law that while



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considering an application seeking leave to file the document, we cannot go into the veracity of the documents and merits of the matter. Apart from that, as held by the Hon'ble Supreme Court, in these types of applications, the Court must have a lenient view, if there is a cogent reason. On perusal of the affidavit, there is reason that he traced out the documents recently. Therefore, we find grounds to interfere with the order of the learned Single Judge. Hence, this OSA is allowed and the petition mentioned documents are ordered to be received subject to it's proof and relevancy.

11. Accordingly, this OSA stands allowed as observed hereinabove. There shall be no order as to costs. Consequently, connected CMP is also closed.

(Dr.ANITA SUMANTH, J.) (C.KUMARAPPAN, J.)
24.04.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking order/Non speaking order
kmi

To
The Sub Assistant Registrar,
Original Side,
High Court of Madras.



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Dr.ANITA SUMANTH, J.
and
C.KUMARAPPAN, J.

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