



C.R.P(MD)No.516 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.516 of 2025

and

C.M.P(MD)No.2821 of 2025

Pushparani

... Petitioner/Petitioner/
Defendant

Vs.

Sukumaran

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 16.11.2024 made in I.A.No.3 of 2024 in O.S.No.139 of 2022 on the file of the Additional District Court, Sivagangai.

For Petitioner : Mr.PT.S.Narendravasan

ORDER

The defendant in O.S.No.139 of 2022 on the file of Additional District Court, Sivagangai is the revision petitioner herein.



C.R.P(MD)No.516 of 2025

2. The respondent herein as plaintiff has filed the said suit for the relief of recovery of a sum of Rs.25,75,908/- based upon a registered mortgage deed, dated 12.11.2019. A perusal of the written statement reveals that the defendant had borrowed a sum of Rs.12 Lakhs from the plaintiff on 05.09.2017 and another sum of Rs.3 Lakhs on 18.01.2018. However, no consideration has been passed on 12.11.2019. Pending suit, the defendant had filed an application in I.A.No.3 of 2024 to direct the Income Tax Department for production of Form 16 for the period covering between 01.04.2019 to 31.03.2020 so as to prove the financial capacity of the plaintiff as well as to prove the fact that whether the amount was paid on the date of mortgage. This application came to be dismissed by the trial Court on the ground that the mortgage deed being a registered document, the defendant has to examine the attestors to prove whether consideration has passed on the said date or not and therefore, the question of summoning of Income Tax documents does not arise. Challenging the same, the present revision petition has been filed.

3. According to the learned counsel appearing for the revision petitioner, when a specific defence has been taken that consideration has



C.R.P(MD)No.516 of 2025

not been passed on 12.11.2019, unless the income tax details are furnished, the defendant would not be in a position to prove his case. He further contended that the trial Court has proceeded to pass an order as if the defendant has admitted the receipt of consideration under the mortgage deed, dated 12.11.2019. Hence, he prayed for allowing the revision petition.

4. Heard the learned counsel appearing for the revision petitioner and perused the material records.

5. The suit is for recovery of money based upon a registered mortgage deed, dated 12.11.2019. The main defence of the defendant is that he has not borrowed any amount on 12.11.2019 and consideration has not been passed on the said date. Therefore, the burden of plaintiff is upon the plaintiff to establish that on the date of registered mortgage, a sum of Rs.18,50,000/- was disbursed to the defendant. In such circumstances, the defendant need not take up the said burden and file such an application. In such circumstances, the trial Court has rightly rejected the petition. There are no merits in the revision petition.



C.R.P(MD)No.516 of 2025

WEB COPY 6. Hence, this Civil Revision Petition stands dismissed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

25.02.2025

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

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To

- 1.The Additional District Court,
Sivagangai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.516 of 2025

R.VIJAYAKUMAR,J.

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Order made in
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