



C.R.P(MD)No.1659 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.01.2025
DELIVERED ON : 29.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.1659 of 2024
and
C.M.P(MD)No.9746 of 2024

Ussankutty

... Petitioner

Vs.

1.Kolsan Bivi

2.Mohammed Alienation

3.Habibullah

4.Fathima Bivi

5.Mohammed Rabeek

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order, dated 21.02.2024 in I.A.No.5 of 2023 in O.S.No.74 of 2022 on the file of the Subordinate Judge, Manapparai and allow the civil revision petition.



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For Petitioner : Mr.B.Prasanna Vinoth

For R-1 : Mr.S.A.Ajmal Khan

For R-2 to R-5 : No appearance

ORDER

This Civil Revision Petition is preferred against the order passed in I.A.No.5 of 2023 in O.S.No.74 of 2022 on the file of the Sub Court, Manaparai.

2. The revision petitioner is the first defendant in the above suit. The first respondent herein as plaintiff filed the suit in O.S.No.74 of 2022 for the relief of specific performance against the petitioner / defendant. Pending suit, the petitioner filed an application in I.A.No.5 of 2023 under Order XVIII, Rule 16 of the Civil Procedure Code, 1908 to permit him to file the proof affidavit in Malayalam language, or to engage a translator for recording his evidence. In the said application, it is submitted that the petitioner is a Malayali by birth and he is not conversant with Tamil language and that he has not executed any sale agreement in favour of the



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first respondent and therefore, sought the permission of the Court to file the proof affidavit in Malayalam or to engage a translator for recording his evidence.

3. On the other hand, the first respondent / plaintiff objected the said application stating that the petitioner is well conversant with Tamil language since he resides in Ottapalam Division in Palakkad District which is nearer to Pollachi.

4. It is further submitted that the present application is filed by the petitioner with intention to deny the sale agreement and that the notice, paper publication and plaint are in Tamil language and the petitioner having understood all the above records his contesting the suit by filing his written statement. His further contention is that even in the reply notice, dated 17.04.2012 and the sale deeds, dated 06.06.2012 and 06.09.2007 in favour of the petitioner are all in Tamil language and there is no endorsement in the above documents that the contents were communicated to the petitioner through a translator. This would goes to prove that the petitioner is well conversant with Tamil language. His further contention is that even during



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the course of trial, P.W.2, who prepared Exhibit A.1 sale agreement has deposited before the Court as if the petitioner executed the sale agreement after understanding the content in it. Therefore, the petition filed by the petitioner is devoid of merits and liable to be dismissed. The Trial Court considering the above aspects rightly dismissed the said application which calls for no interference.

5. Heard the learned Counsel for the petitioner and the learned Counsel for the first respondent and perused the materials available on record.

6. Admittedly, the petitioner is a Malayali and the documents relied upon by the first respondent are all in Tamil language. However, the contention of the petitioner is that in order to have a better understanding of the proceedings, seeks the permission of the Court to file the proof affidavit in Malayalam or to engage a translator for recording his evidence.

7. In this Court's considered opinion instead of filing the proof affidavit in Malayalam language, no prejudice would be caused to the first



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respondent / plaintiff, if a translator is engaged for recording the evidence of the revision petitioner.

8. With this observation, the present revision petition stands allowed by directing the Trial Court to engage a translator for recording the evidence of the petitioner at his own cost. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

29.01.2025

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

To

The Subordinate Judge,
Manapparai.



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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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29.01.2025