

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Jun-27-2016

Judge : The Honourable Mrs. Justice Pushpa Sathyanarayana

Appeal No. : Application No. 572 of 2016 in C.S. No. 928 of 2010

Appellant : Petitioner

Respondent : Respondent

Judgement :

1. This application is filed seeking direction to the plaintiff to produce the bank statements of ICICI Bank, Anna Nagar West Extension, Chennai 101, from 2008 to 2011 and for the production of income tax returns for the financial years 2008-2009, 2009-2010 and 2010-2011.

2. The suit is one for recovery of money. The plaintiff's side examination was completed on 11.09.2015 and was posted for defendant's side examination in chief and cross. At this juncture, the above application is filed on 05.01.2016 for the above said relief.

3. It is stated in the affidavit filed in support of this application that the above mentioned documents are mandatory for adjudication of the suit. However, it is not stated as to what purpose the same are required after the evidence of plaintiff is over.

4. In the counter affidavit filed, the plaintiff has submitted that already proceedings under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate No. II, Madurai is pending.

5. The suit transaction relates to the year 2008 and the written statement itself was filed in the year 2014. Issues were framed and examination of P.W.1 was completed on 11.09.2015. During the cross examination of the plaintiff, the plaintiff had stated that the suit transaction could not get reflected in the plaintiff's bank statements or in his income tax returns. Based on the said statement, the defendant is insisting for production of those two documents.

6. When it is categorically stated by the plaintiff that those two documents were not reflected in the bank statements or in the income tax returns, it is unnecessary to summon the same. The burden is on the plaintiff to establish the claim over the defendant. Even if the documents are not produced, which may be vital to the adjudication, it is open to the Court to draw adverse inference against the plaintiff. The defendant cannot compel the plaintiff to produce the above said documents. From the conduct of the defendant, it is clear that it is only an exercise of procrastination. Hence, there is no reason to allow the application for production of the said documents and no prejudice would be caused to the defendant in dismissing the present application.

7. Hence, this application is dismissed as no merits. The Registry is directed to post this matter before the learned Additional Master No. I, on 01.07.2016 for continuation of evidence and the trial may be completed on or before 31.07.2016. No costs.

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