

IN THE COURT OF THE SUBORDINATE JUDGE, SATHYAMANGALAM.

PRESENT: Tmt. N.Sharmila, B.A., B.L.,  
Subordinate Judge,  
Sathyamangalam.

Friday the 27<sup>th</sup> day of September 2024  
(2055 Thiruvalluvarandu Kurothy varudam Purattasi Thingal 11<sup>th</sup> day)

**I.A.No.4/2024 in**  
**O.S.No.212 of 2018**

1. S.Gowtham  
2. Sampathkumar ... Petitioners/Defendants

Vs

Tamil Nadu Mercantile Bank Ltd.,  
Represented by its Branch Manager,  
Sathyamangalam. ... Respondent/Plaintiff

This petition was came up for final hearing before me on 27.08.2024 in the presence of Thiru.S.Manoharan, Advocate for the Petitioners and Thiru.K.R.Annamalai, Advocate for the Respondent and upon perusing the entire case records, on hearing the arguments of both sides, and having stood over for consideration till this date, this court delivered the following:

**ORDER**

The petition filed under order 11 Rule 14 to order the respondent to produce the documents more fully described the schedule to the petition hereto to get along with the further proceedings in this case.

## **2. The averments of the petition in brief:**

The 2<sup>nd</sup> petitioner is the petitioner of this petition and the 2<sup>nd</sup> petitioner swear this affidavit on behalf of the 1<sup>st</sup> petitioner as well. The petitioners are herein and the defendants in the suit. On 30.04.2019, this Honourable Court was pleased to pass an ex parte decree against the petitioners. The petitioners submit that the suit is pending for further cross examinations of the respondent. Since our Counsel had issued a notice under section 66 of the Indian Evidence Act to the respondent to produce the documents more fully described in the schedule to the petition hereto, the petitioners could not complete our cross examination. In the subsequent hearings the respondent did not produce the documents referred to in the schedule to the said memo of Notice to furnish the documents. As such it has become necessary that this Honourable Court has to order the respondent to produce the documents more fully described the schedule to the petition hereto. These petitioners further submits that the documents referred to in the schedule to the petition hereto are in the custody and working circulars of the respondent. Unless the respondent is directed to produce the documents more fully described in the schedule to the petition hereto, the petitioners will be put to heavy and irreparable loss and injury.

## **3. The averments in counter filed by respondent in brief :**

The petition is false, frivolous, vexatious and unsustainable both under law and on facts. Except the facts, which are specifically admitted herein, the petitioner should prove the averments made in the affidavit. The petitioner had filed this petition with malafied intention and adopting tactics to delay the proceedings with I.A.4/2024 In OS.212/2018 Sub Court, Sathy 2 of 5

motives and to harass the Respondent. The chronology of events took place from the very beginning of PW1 examination would very well expose the attitude and intention of the petitioner in prosecuting his case before this Hon'ble Court. It is ridiculous to state that the petitioner could not cross examine the respondent due to the non production of the documents required by the Petitioner on the notice given by the Petitioner U/s.66 of Evidence Act. The documents referred by the petitioners are bald and do not contain date, circular number etc., The petitioner had given notice U/s.66 of Evidence Act and proper reply was also filed before this Hon'ble Court. Hence the petitioner cannot file this petition for the same relief and the same is barred by 'res judicature'. The documents required by the petitioner is not relating to the facts in issue of this case. The petition is devoid of merits and luxurious. The petitioner has not approached the Honorable court with clean hands and for bonafide reasons. Hence dismiss the petition.

#### **4. Points For Consideration:**

1. Whether the petition is allowed or not?:

#### **5. Evidences:**

In this petition, there is no oral or documentary evidence on either side. Both the counsels appearing for the petitioners as well as the respondents have agitated the matter and dealt with the points at length. In the light of the above, this court shall now proceed to discuss the points.

## **6. Points:**

6.1. Both side heard. Records perused.

6.2. The above petition has been filed for order the respondent to produce the documents of 1). The guide lines for advancing educational loan issued by the Reserve Bank of India. 2). The circular issued by the head office for granting educational loan. 3). The circular for recovery procedure of educational loan. 4) All other relevant documents pertaining to the above requirements.

6.3. The above suit filed by the plaintiff/petitioner against the respondents for recovery of Money based upon the educational loan obtained by the defendants from plaintiff's. The above case is posted for continuation of PW1 cross. The counsel for the petitioner argued that, the documents mentioned above is necessary to cross examine the PW1 by the petitioner's side. The counsel for the respondent argued that, the documents referred by the petitioners are bald and do not contain date, circular number etc. On perusal of the above petition it is clear that, the date circular number of the petition mentioned documents was not mentioned in the above petition. Hence, the reason given by the respondent to dismiss the petition is acceptable one. Hence this petition is dismissed.

7. In the result, this petition is dismissed. No costs.

Dictated to the Steno typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 27<sup>th</sup> day of September 2024.

Subordinate Judge,  
Sathyamangalam.

Petitioner's side witnesses and documents: NIL  
Respondent's side Witnesses and documents : NIL

Subordinate Judge,  
Sathyamangalam.