

In the Court of the Principal District Judge, Madurai
Present: Thiru. S. Sivakadatcham, B.Sc., M.L.,
Principal District Judge, Madurai

Friday, this the 4th day of July, 2025

I.A.No.2/2025 in COS.No.4/2024

S. Kaveri Priya

...Petitioner/ Plaintiff.

/Vs/

D. Vijayakumar

.. Respondent/ Defendant.

This petition coming on 09.06.2025 for hearing before me in the presence of Thiru.Aru.Maruthachalam, Advocate for the petitioner and of Tmt.A.S.Sangeetha, Advocate for the respondent, upon hearing both sides and having stood over for consideration till this day, this court delivered the following:-

ORDER

The petitioner has filed this petition under Order XVI, Rule 1(2) & 6 r/w. Sec.151 of Civil Procedure Code to summon the Inspector of Police, District Criminal Branch I, Superintendent of Police Office, Madurai and to produce or cause the production of the original documents along with the xerox copies mentioned in the petition.

2. The averments in the affidavit filed along with petition are briefly as follows:-

The petitioner is the plaintiff in the main suit. Prior to filing suit, on 03.11.2023 a pre-mediation was held before the Superintendent of Police, Madurai on the basis of the complaint, which was lodged by the petitioner. The

Inspector by name Jeyamani of DCB-I conducted the mediation and he enquired about the issues between the petitioner and the respondent. With the consent of both the parties, a common PWD Engineer inspected the property on 13.03.2024 and evaluated the construction works done by the defendant and submitted report to the SP office, Madurai on 12.08.2024. Now, the main case was posted for plaintiff side further evidence. It is necessary to summon the Inspector of Police, DCB-I, Madurai to produce the complaint copy, enquiry report and PWD report before this Court so as to reveal the truth regarding the quality of the construction and building valuation. Hence, this petition is filed.

3. The averments in the counter affidavit filed by the respondent are in brief as follows:-

The petition is not maintainable. The respondent denied the allegation stated in para No.3, in the petition totally. The petitioner lodged a criminal complaint before the Superintendent of Police, Madurai on 03.11.2023, but, she stated that there was a pre-mediation instituted before the Inspector of Police namely Jeyamani is false and vexatious one. The complaint cannot be treated as a pre-mediation as per Section 12(A)(1) of Commercial Court Act. The petitioner has not stated about the pre-mediation in the suit pleadings. After the cross-examination of the petitioner/plaintiff by the respondent counsel, to fill up the lacunae in the plaint, the petitioner has filed this petition before this Court. So, the petition is liable to be dismissed.

4. The point for determination:

Whether this petition is allowable or not?

5. Both sides have not adduced either oral evidence or documentary evidence. Heard both sides.

6. Point:

The learned petitioner's counsel has argued that the petitioner has filed this petition to summon the Inspector of Police, DCB-1, Madurai to produce documents and also contended that it is necessary to file documents to substantiate his case.

7. It is stoutly opposed on respondent side mainly on the ground that pre mediation was not held as per section 12(A)(1) of the Commercial Courts Act and also no such petition was filed and the purported documents are not vital.

8. Records perused. The petitioner has filed the suit for recover of Rs.42 lakhs in pursuance of agreement for construction of 1st item of property dated 08.04.2023 entered into between the petitioner and the defendant and also directing the respondent to pay Rs.,20 lakhs as damages or compensation and also directing the 1st respondent to furnish security for a sum of Rs.62 lakhs failing which to order for attachment of 2nd item of suit property. The case is posted for further evidence of PWs. At this stage, the petitioner/plaintiff has filed this petition to send for the documents allegedly filed during mediation held by the Inspector of Police DCB.1, Madurai. Though it is denied by the respondent that there is no mediation was held, but in the petition affidavit it is stated that there was complaint lodged before the Superintendent of police,

Madurai by the petitioner/plaintiff and the Inspection report was also filed by the Superintendent of police, Xerox copy of report submitted by the engineer on 12.08.2024 regarding the quality and valuation of the construction by the defendant. The petitioner mentioned in petition affidavit that on the basis of receipt of complaint lodged by him, mediation was held by the Inspector of Police DCB.1, Madurai and upon instruction property was inspected with the assistance of common PWD Engineer, who filed report on 12.08.2024, which are available with the Inspector of Police, DCB.1, Madurai. The suit has been filed for recovery of money as well as damages for non-performing the construction as contemplated in the agreement entered into between the petitioner and the defendant. The purported documents pertaining to inspection and valuation made by PWD engineer filed before the Investigating Officer, which are relevant to the case or not can be adjudicated only at the time deciding the issue based on evidences adduced on both side. Therefore, in order to avoid multiplicity of proceeding and also in the interest of justice, this court holds that this petition shall be allowed.

9. In the result, this petition is allowed. No cost.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in open court this the 4th day of July, 2025.

Principal District Judge,
Madurai.

List of witnesses examined:-

Petitioner side – Nil

Respondent side – Nil

List of documents marked:-

Petitioner side – Nil

Respondent side - Nil

Principal District Judge,
Madurai