

IN THE COURT OF DISTRICT MUNSIF AT AMBATTUR.

PRESENT: TMT. FANNY RAJAN, B.A., B.L.(Hons.),
DISTRICT MUNSIF, AMBATTUR.

Friday, the 09th day of June 2023.

MISCELLANEOUS PETITION NO.9 OF 2023

IN

RESPONSIBILITES OF LANDLORDS AND TENANTS

ORIGINAL PETITION NO.12 OF 2021

CNR.No.TNTR22 – 000059 - 2021

A.Prakash

.....Petitioner/Applicant

Versus

M/s Ladder Charitable Trust, Rep. by its
Managing Trustee, Ms.S.Elizs Banu

.....Respondent/Respondent

This petition having coming on 16.03.2023 before me for final hearing in the presence of Shri.C.N.Raman and P.V.Vasudevan, learned counsel for the petitioner and Shri.S.Vardhini and S.Rabi Jayakumar, learned counsels for the Respondent, upon hearing the arguments made by the learned counsel for the petitioner and on perusal of the records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition has been filed under Order 13 Rule 1 CPC to re-call the Petitioner/Applicant for the purpose of marking Bank Statement of The Karnataka Bank Limited, Ayanavaram Branch, Chennai from 04.07.2016 to 20.04.2021 as Exhibit on the side of the Applicant.

CONCISE STATEMENT OF THE PETITIONER:

2. The petitioner has averred that the Petitioner filed the petition for eviction of the respondent trust. The bank statement with regard to the payment of rent could not be filed. Hence, the same is obtained from the bank to show irregular payment and

default. Therefore, the document is vital for the case. If the petition is not allowed, he would be put to irreparable loss. Hence, this petition.

CONCISE STATEMENT OF THE RESPONDENT AS PER THE COUNTER

AFFIDAVIT:

3. The Respondents denied the allegations and stated that rental arrear statement is not produced only the bank statement is produced. The relationship with the respondent and the Bethel Enterprises is not established. Hence, this Petition has to be dismissed.

4. **POINT FOR CONSIDERATION:** Whether the petitioner is entitled for the relief of re-call the Petitioner/Applicant for the purpose of marking Bank Statement?

Discussion and Findings:

5. Heard the Learned counsel for the Petitioner and Respondent. This court has perused all the records. No oral or documentary evidence has been let in on the both parties. Whiles, the instant Petition has been filed by the Petitioner in the suit seeking to recall the Petitioner and marking the bank statement.

5. In the instant case, the Learned Counsel for the Petitioner have specifically contended that the documents annexed with the petition is necessary to the prove the case of the Petitioner herein. This Court opines that contentions raised by the Learned Counsel for the Respondent that the document is not relevant as it is not in the name of the Petitioner but in some other name. The relationship with the bank account is not established. The genuineness of the documents, relevancy of the document and the evidentiary value can be decided at the time of trial and enquiry. It is quite

premature to decide the said issue in this Petition as it is only seeking to recall the Petitioner and mark additional documents.

6. It is true that the document is filed for the 1st time and not mentioned in the RLTOP. However, in light of the section 36 of the Act, this court considers that the strict rules of CPC does not apply in this case and therefore, there is no impediment to file a separate application for receiving the additional documents. However, as the RLTOP is pending for marking of documents through the PW1, this Petition appears to have been filed only to receive the additional document and there is no necessity to recall the PW1.

7. This Court finds that the leave to file the additional documents, does not in any manner vitiate the right of the Respondents to object to the marking of the document in the trial or enquiry. It is true that the statement is not in the name of the Petitioner and the relationship regarding the account and the Petitioner is a matter of trial. However, rejecting the document at this juncture without providing an opportunity to the petitioner may cause prejudice to the interest of justice. Hence, with a view to provide a fair opportunity to the Respondent, the documents may be accepted only subject to admissibility, relevancy and proof which shall be decided at the time of marking of the documents and final arguments as per the established procedure of law.

8. In view of the above stated, this Court adopts a liberal approach in the case of the Petitioner and examines if there is any deliberate negligence or delay in filing the document. Upon perusal of the Petitioner's Affidavit and other material records, this

Court finds that there is no apparent or deliberate delay on the side of the Petitioner or any attempt by the Petitioner to abuse the process of law. Therefore, this Court considers it necessary to adopt a liberal approach as per the well established principle of law in respect of the reasoning by the Petitioner and this Court is inclined to permit the Petitioner to receive the additional documents. Hence, this Court concludes that in the interest of justice, the Petitioner ought to be provided with an opportunity to file the additional document produced with this Petition. This Court finds that there is no impediment to receive the additional documents which are filed along with the petition, subject to the admissibility, relevancy and proof.

9. Considering the nature of this case and the relationship between the parties, this court is of the considered view that the parties shall bear their own costs.

10. RESULT:

In the result, this Petition is partly allowed and the Bank Statement of The Karnataka Bank Limited, Ayanavaram Branch, Chennai from 04.07.2016 to 20.04.2021 is received and the said document shall be marked subject to admissibility, relevancy and proof. No costs.

Dictated to the steno-typist, typed directly by her in the desktop, corrected and pronounced by me in the open Court on this the 09th day of June 2023.

DISTRICT MUNSIF,
AMBATTUR.

PETITIONER AND RESPONDENT SIDE WITNESSES AND EXHIBITS: NIL

DISTRICT MUNSIF,
AMBATTUR.