

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.((PD) Nos.3463 and 3464 of 2014
and M.P.Nos.1 of 2014 in CRP No.3463 of 2014

M/s Dishnet Wireless Ltd rep by
Business head,
19/32, Cathedral Garden Road,
Nungambakkam,
Chennai-600 034

..... Petitioner in both the revision petitions

vs.

M/s Fresh & Honest Cafe Ltd,
rep by Regional Business Head,
Chennai Branch, IB Corporation
Water Works Road, Near Govinida
Reddy Bungalow, Industrial Estate,
Guindy, Chennai-600 032

.... Respondent in both the revision petitions

Civil Revision Petitions filed under Article 227 of the Constitution of India against the orders dated 3.4.2014 passed in I.A.Nos.1114 of 2014 and 1115 of 2014 in O.S.No.4489 of 2007 on the file of VIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.K. Surendranath

ORDER

Challenging the fair and final orders passed in I.A.Nos.1114 and 1115 of 2014 in O.S.No.4489 of 2007, on the file of VIII Assistant City Civil Court, Chennai the defendant has filed the above Civil Revision Petitions.

2. The plaintiff has filed suits in O.S.Nos.4489 and 6914 of 2007 for recovery of money.

3. The defendants filed their written statement and are contesting the suits.

4. After closure of the oral evidence, when the matter was posted for arguments, the plaintiff filed the present applications i.e., I.A.Nos.1114 and 1115 of 2014 in O.S.No.4489 of 2007 to reopen and recall D.W.2 for further examination.

5. In the affidavit, filed in support of the petition, the plaintiff has stated that at the time of cross examination of D.W.2, some vital questions

were omitted to put to the witness and therefore, D.W.2 should be recalled for further examination. That apart, the plaintiff has also stated that they want to put questions to D.W.2 with respect to eight documents.

6. Though the application was opposed by the defendnats, the trial court allowed the applications, giving another opportunity to the plaintiff to put the omitted questions to D.W.2.

7. On a perusal of the materials available on reocrd, it could be seen that the suits in O.S.Nos.4489 and 6914 of 2007 are tried jointly. One Balaji was examined as D.W.2. The said witness was working with the defendant compay. Since the plaintiff has stated that some vital questions were omitted to put the witness, with regard to the eight documents, in the interest of justice, the trial court has rightly given an opportunity to the plaintiff for further examination of D.W.2.

8. It is a settled position that in order to fill up the lacuna, the witness should not be recalled for further examination. In the case on hand, the plaintiff has stated that he wants to put questions only with regard to the eight documents.

9. In these circumstances, the trial Court has rightly allowed the application. I do not find any error or irregularity in the order passed in I.A.Nos.1114 and 1115 of 2014 in O.S.No.4489 of 2007, on the file of VIII Assistant City Civil Court, Chennai and the Civil Revision Petitions are liable to dismissed as devoid of merits and accordingly, both the Civil Revision Petitions are dismissed. No costs. Consequently, connected Mp is closed.

29-06-2015

sr

Index:no
website:yes

To

The VIII Assistant City Civil Court, Chennai

M. DURAISWAMY,J.,

sr

C.R.P.((PD) Nos.3463 and 3464 of 2014

29.06.2015