

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P(PD) Nos.4043 and 4044 of 2015
and M.P.Nos.1 and 1 of 2015

Mr.Sarath Kakumanu

.. Petitioner in
both C.R.Ps'

Vs.

1.Mr.Veerappan Arunachalam
2.Mrs.Priya Asokan

.. Respondents in
both C.R.Ps'

Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside the order dated 04.07.2015 in I.A.Nos.9407 and 9408 of 2015 in O.S.1578 of 2014 on the file of Hon'ble XVI Assistant City Civil Judge, Chennai.

For Petitioner : Mr.G.R.Lakshmanan

For Respondents : Mr.P.K.Rajagopal

(In both Cr.Ps')

ORDER

The revision petitioner is the defendant in O.S.No.1578 of 2014 on the file of XVI Assistant City Civil Court, Chennai. The details of the suit is not necessary for disposal of these revision petitions.

2. The suit is at the stage of examination of witnesses on the side of the defendant. The examination of the witnesses on the side of the

plaintiffs was over by 03.03.2015. Since the defendant did not examine any witness, the defendant's side was closed by the trial Court. In the circumstances, the defendant filed I.A.Nos.9407 and 9408 of 2015 to reopen and to permit the defendant to examine as D.W.1.

3. The trial Court allowed those applications on 04.07.2015 on condition that the revision petitioner shall pay the cost of Rs.500/- in each of the application and further, the revision petitioner shall appear on 08.07.2015 to give evidence.

4. Though the revision petitioner/defendant paid the cost, he did not appear on 08.07.2015. Hence, the trial Court rejected both the applications in I.A.No.9407 and 9408 of 2015. Hence, these revision petitions.

5. Heard both sides.

6. Taking into account the facts and circumstances of the case and also to give an opportunity to the defendant, I am inclined to interfere with the order passed by the trial Court, particularly taking note of the submission made by the learned counsel appearing for the petitioner/defendant that the defendant could not take un-necessary

adjournments and fully co-operate with the trial. Though the learned counsel appearing for the respondents/plaintiffs submits that an attempt is made by the defendant to drag on the case by filing an application to examine him through Advocate Commissioner, the learned counsel for the revision petitioner/defendant submitted that now the revision petitioner/defendant would appear in the Court and the applications were filed at the time, when he was not well. Since the statement made by the learned counsel appearing for the revision petitioner/defendant that he would appear in the Court and to give evidence, I am inclined to set aside the order dated 04.07.2015 in I.A.Nos.9407 and 9408 of 2015.

7. Accordingly, these Civil Revision Petitions are allowed and the order dated 04.07.2014 passed in I.A.No.9407 and 9408 of 2015 by the learned XVI Assistant City Civil Judge, Chennai is set aside. The revision petitioner shall appear before the trial Court to give evidence without taking un-necessary adjournments. The trial Court is also directed to dispose of the suit in O.S.No.1578 of 2014 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

15.10.2015

Index : Yes
Internet: Yes
vsm

D.HARIPARANTHAMAN,J.

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To

The XVI Assistant City Civil Court,
Chennai.

C.R.P(PD) No.4043 and 4044 of 2015

15.10.2015