



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2015

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CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

**C.R.P. (PD) (MD) Nos. 656 and 657 of 2015
and
M.P. (MD) No. 1 of 2015**

L.Nachiyappan : Petitioner in both C.R.Ps.

Vs.

N.Swaminathan : Respondent in both C.R.Ps.

Common Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India praying to call for the records relating to the fair and decreetal order dated 30.01.2015 in I.A.Nos.334 and 335 of 2014 in O.S.No.32 of 2009 respectively on the file of learned District Judge, Sivagangai and set aside the same.

For Petitioner : Mr.AN.Ramanathan
For Respondent : Mr.R.Sundar Srinivasan

COMMON ORDER

The respondent filed a suit in O.S.No.32 of 2009 before the District Court, Sivagangai, seeking the relief of specific performance, by executing the sale deed in respect of the suit property. The petitioner is the fourth defendant in the said suit. The petitioner, in the said suit, filed an application in I.A.No.334 of 2014, to re-open the matter. Similarly, he filed an application in I.A.No.335 of 2014 to recall P.W.1 for further cross-examination, with reference to Ex.B.3. The applications were dismissed by the Trial Court. The orders are under challenge in these Civil Revision Petitions.

2. The learned counsel for the petitioner contended that P.W.1 was not cross-examined on the basis of Ex.B.3. It was only for the said purpose, interlocutory applications were filed.

3. The learned counsel for the respondent, on instructions, submitted that the respondent has no objection in recalling P.W.1 for further cross-examination.



4. The learned District Judge dismissed the applications only on the ground that the petitioner was given sufficient opportunity earlier to cross-examine P.W.1.

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5. The factual matrix indicates that P.W.1 was not subjected to cross-examination with reference to Ex.B.3. The petitioner was, therefore, perfectly correct in filing the interlocutory applications to re-open the matter and to re-call P.W.1 for further cross-examination.

6. In the result, the order dated 30 January, 2015 is set aside. The applications in I.A.Nos.334 and 335 of 2014 in O.S.No.32 of 2009 are allowed.

7. The learned Trial Judge is directed to recall P.W.1 for further cross-examination.

8. The Civil Revision petitions are allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

The District Judge,
Sivagangai.

+1cc to Mr.AN.Ramanathan, Advocate Sr.No. 23560
+1cc to Mr.R.Sundar Srinivasan, Advocate Sr.No. 23794
sml
AA/08.05.2015/2p -4c/

Common Order made in
C.R.P. (PD) (MD) Nos.656 and 657 of 2015
Dated:-29.04.2015