



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2015

CORAM:

THE HONOURABLE Mr. JUSTICE K.K. SASIDHARAN

C.R.P.PD(MD) Nos. 1016 and 1017 of 2013

and

M.P. (MD) No. 1 of 2013

C.R.P.PD. (MD) No. 1016 of 2013:

1. Kanagaraj
2. Ravichandran
3. Gunasekaran
4. Navamani

... Petitioners

Vs.

1. Dravidamani
2. Bavani
3. Baskaran
4. Uthirapathi

... Respondents

PRAYER: Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 21.12.2012 passed in I.A.No.330 of 2012 in O.S.No.43 of 2009 by the learned District Munsif cum Judicial Magistrate Court, Orathanadu.

For Petitioners : Mr.G.Karnan in BOTH CRP'S  
For Respondents : Mr.V.Bharathidasan for R2 to 4  
CRP 1017 OF 2013  
R1 TO R4 Not Appearance  
CRP 1016 OF 2013

C.R.P.PD. (MD) No. 1017 of 2013:

1. Kanagaraj
2. Ravichandran
3. Gunasekaran
4. Navamani

... Petitioners

Vs.

1. Dravidamani
2. Bavani
3. Baskaran
4. Uthirapathi

... Respondents

PRAYER: Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 21.12.2012 passed



in I.A.No.331 of 2012 in O.S.No.43 of 2009 by the learned District Munsif cum Judicial Magistrate Court, Orathanadu.

#### COMMON ORDER

The petitioners filed an application in I.A.Nos.330 and 331 of 2012 in O.S.No.43 of 2009 before the District Munsif cum Judicial Magistrate Court, Orathanadu, to recall D.Ws.1 and 2 for further cross-examination. The applications were dismissed by the learned Trial Judge primarily on the ground that the petitioners have not given any sufficient reason to recall D.W.1 and D.W.2. The order dated 21.12.2012 is under challenge in this Civil Revision Petition.

2.The learned counsel for the petitioners submitted that the petitioners wanted to cross examine D.W.1 and D.W.2 with reference to certain documents. The petitioners are prepared to disclose the documents for the purpose of enabling the Trial Court to decide the issue.

3.The learned Trial Judge dismissed the applications primarily on the ground that sufficient reasons were not given by the petitioners.

4.The petitioners in their Interlocutory Applications contended that they failed to cross-examine the witnesses with reference to certain documents. It is true that the details of documents were not furnished by the petitioners. The failure on the part of the petitioners to indicate the purpose for which the witnesses should be recalled alone made the Trial Judge to dismiss the application.

5.Order 18 Rule 17 C.P.C gives discretion to the Trial Court to recall the witnesses either suo motu or at the instance of parties. The Court should be convinced that recall witnesses is absolutely necessary for an effective adjudication.

6.The affidavits filed in support of the Interlocutory Applications in I.A.Nos.330 and 331 of 2012 does not contain the reason, which made the petitioners to recall witnesses. I am therefore of the view that opportunity should be given to the petitioners to file a better affidavit indicating the purpose for which they want to recall DW.1 and DW.2.

7.In the result, the order dated 21.12.2012 in I.A.Nos.330 and 331 of 2012 are set aside. The applications in I.A.Nos.330 and 331 of 2012 are restored to file. The petitioners are given liberty to file a better affidavit as indicated above. The learned Trial Judge is directed to consider the matter on merits.



8.The Civil Revision Petitions are allowed to the extent indicated above. No costs. Consequently, connected M.P.is closed.  
Sd

ASST REGISTRAR ( AS )

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SUB ASST REGISTRAR

To

The District Munsif cum Judicial Magistrate Court, Orathanadu.  
TANJORE DIST

2CC TO MR. G.KARNAN, ADV SR: 28865 28866

1CC TO MR. V. BHARATHIDASAN, ADV SR: 28892

DM 07 JULY 2015

C.R.P.PD(MD)Nos.1016 and 1017 of 2013

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