

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD).No. 2929 of 2015

M/s.PCT Holdings Private Limited
244, ATD Street, Race Course
Coimbatore 19
rep., by its authorised representative
R.Jayabal

... Petitioner/1st Defendant

Versus

1. Mrs.Lakshmi
2. Mr.Jagadeesan
3. Mr.Prakash

... Respondents/Plaintiffs

4. Mr.C.Balasubramanian

... Respondent/2nd Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order of eschew made against the petitioner/1st defendant in O.s.No. 2508 of 2008 dated 29.01.2015 on the file of the learned 1st Additional District Munsif at Coimbatore.

For Petitioner : Mr. M.Raja Sekhar
For RR 1 to 3 : Mr. L.Mouli

O R D E R

The petitioner failed to appear for cross examination on 29.01.2015 in spite of giving sufficient opportunity by the trial Court. The trial Court, therefore, eschewed the evidence of the petitioner as DW-1, which was given in chief. The order dated 29.01.2015 eschewing the evidence is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents 1 to 3.

3. The petitioner is the first defendant in O.S.No. 2508 of 2008 on the file of learned I Additional District Munsif, Coimbatore. The trial Court, after conclusion of the evidence on the side of the respondents 1 to 3, posted the matter for the evidence of the petitioner in his capacity as the first defendant. The matter was posted originally on 23.12.2014 for the evidence of the petitioner as DW-1. However, the witness was not cross examined by the plaintiffs. Thereafter, the matter was posted on 23.01.2015. Since the petitioner was not present on the said date of hearing, the matter was adjourned to be posted on 29.01.2015. Even on 29.01.2015, the petitioner was not present. The evidence of the petitioner was eschewed.

4. The evidence on the side of the second defendant is yet to

commence. It is true that the petitioner failed to appear before the trial Court on two occasions. Even then, I am of the view that one more opportunity should be given to the petitioner to lead evidence.

5. In the result, the order dated 29.01.2015 is set aside. There shall be a direction to the witness of petitioner (DW-1) to be present before the trial Court on 18.10.2016. The witness would be subjected to cross examination by the learned counsel for the respondents 1 to 3. In case, DW-1 fails to appear on 18.10.2016, the trial Court shall close the evidence and thereafter, proceed to record the evidence of the other defendants.

6. The Civil Revision Petition is allowed as indicated above. No costs.

29.09.2016

vsg

To

1st Additional District Munsif at Coimbatore.

Note : Issue order copy by 05.10.2016

K.K.SASIDHARAN, J.

vsg

C.R.P.(PD).No. 2929 of 2015

29.09.2016