

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM:

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

CRP (PD) Nos.2973 and 2974 of 2015
and M.P.Nos.1 and 2 of 2015
and C.M.P.No.2027 of 2016

Savani Transports Private Limited,
 Rep. by its Director,
 Old No.72, New No.145,
 Thambuchetti Street,
 Chennai – 600 001.

... Petitioner in both CRPs.

Versus

M.S.Sandilya

... Respondent in both CRPs.

Prayer in CRP(PD)No.2973 of 2015: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.07.2015 made in M.P.No.242 of 2015 in R.C.O.P.No.725 of 2012 on the file of the learned XIII Judge, Small Causes Court, Chennai.

Prayer in CRP(PD)No.2974 of 2015: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.07.2015 made in M.P.No.243 of 2015 in R.C.O.P.No.725 of 2012 on the file of the learned XIII Judge, Small Causes Court, Chennai.

For Petitioner		
in both CRPs.	:	Mr.T.M.Hariharan
For Respondent		
in both CRPs.	:	Mr.P.Veeraraghavan

COMMON ORDER

The respondent filed a petition before the Trial Court to fix fair rent. In the said Original Petition, the respondent filed an application for appointment of an Engineer to inspect the property and submit a report. The Engineer

appointed by the Court submitted his report. He was cross examined by the petitioner. Thereafter, another Engineer, appointed pursuant to the application filed by the petitioner herein, filed his report. Since there were discrepancies in two reports, the petitioner filed applications before the trial Court to re-open and recall P.W.2 for further cross examination. The applications were dismissed by the trial Court primarily on the ground that it was filed at a belated stage. Feeling aggrieved, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner cross examined P.W.2 even before the submission of report by R.W.2. It was only when certain discrepancies were found by the petitioner, on comparison of the report submitted by P.W.2 with the report submitted by R.W.2, that the applications were filed before the Trial Court. The learned counsel for the petitioner is perfectly correct in his contention that due opportunity was not given to cross examine P.W.2 on account of the belated submission of the report by R.W.2. The Trial Court has dismissed the applications on account of delay. The only request was to cross examine P.W.2 with reference to the report filed by R.W.2. The trial Court was not correct in dismissing the application.

4. In the result, the orders dated 04.07.2015 in M.P.Nos.242 and 243 of 2015 are set aside. The applications in M.P.Nos.242 and 243 of 2015 are allowed.

5. The learned Trial Judge is directed to post the original petition for further cross examination of P.W.2. The expenses for production of the witness shall be borne by the petitioner herein. The petitioner shall complete the cross examination on the date on which the witness is in attendance.

6. The Civil Revision Petitions are allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

25.10.2016

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To

1. The XIII Small Causes Court,
Chennai.

K.K.SASIDHARAN, J.

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