

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

The Hon'ble Mr.Justice K.K.Sasidharan

C.R.P.(PD)Nos.2990 and 2991 of 2015

and

M.P.No.1 of 2015 + C.M.P.No.7725 of 2016

in C.R.P.No.2990 of 2015

Rajammal

...Petitioner in both C.R.Ps.

Vs.

Chinnasami

... Respondent in both C.R.Ps.

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned District Munsif Cum Judicial Magistrate, Pochampalli, dated 09.03.2015, in I.A.Nos.38 and 39 of 2015 in O.S.No.49 of 2013.

For Petitioner : Mr.T.M.Hariharan
For Respondent : Mr.K.Senthil Kumar for
Mr.G.Ashok Kumar

ORDER

The petitioner filed two Interlocutory Applications before the learned District Munsif, Pochampalli, in I.A.Nos.38 and 39 of 2015, to re-

open the evidence and to re-call P.W.2, for further cross-examination.

2. The Applications were dismissed by the trial Court with an observation that, sufficient opportunity was given for cross-examination of P.W.2. The Orders, dated 09.03.2015, in I.A.Nos.38 and 39 of 2015, is under challenge in these Civil Revision Petitions.

3. The learned counsel appearing for the petitioner contended that P.W.2 was examined and cross-examined on 03.02.2015. Thereafter, the matter was posted on 11.02.2015 for further evidence on the side of the respondent, being the plaintiff. The petitioner, on 11.02.2015 itself, filed Applications to re-open the evidence and re-call P.W.2 for further cross-examination. The learned trial Judge, was therefore, not correct in rejecting the Applications on the ground that sufficient opportunity was given to the petitioner.

4. The learned counsel for the respondent justified the impugned order. According to the learned counsel, P.W.2 is not the concerned Officer, who can answer the questions with regard to the Ration Card and other documents, relied upon by the petitioner. The learned trial Judge was,

therefore, perfectly right in dismissing the Applications.

5. On a perusal of the documents available on record and from the submissions made by the learned counsel for the parties, it is clear that P.W.2 was cross-examined on 03.02.2015. In fact, the matter was posted on 03.02.2015 only for the purpose of cross-examination of P.W.2. The petitioner completed the cross-examination on the very same date, without taking adjournment. The matter was, therefore, posted on 11.02.2015 for further evidence of the respondent. The Interlocutory Applications in I.A.Nos.38 and 39 of 2015 were filed on 11.02.2015 itself.

6. The learned trial Judge dismissed the Applications primarily on the ground that sufficient opportunity was given to the petitioner to cross-examine P.W.2. Since the Applications were filed even before the cross-examination of further witnesses on the side of the respondent, the trial Court ought to have permitted the petitioner to recall P.W.2 for further cross-examination. Because of the too technical approach adopted by the learned trial Judge, the matter is now pending for the last two years before this Court, which could have been avoided, in case, indulgence was given to the petitioner to re-call P.W.2 for cross-examination. I am, therefore, of the

view that the trial Court was not correct in dismissing the Applications.

7. In the result, the impugned order is set aside.

8. The learned trial Judge is directed to issue notice to P.W.2 to appear before him on a particular date. P.W.2 should be given minimum 10 days notice to give evidence. The petitioner is directed to cross-examine P.W.2 on the very same day of his appearance without taking adjournment. The required batta for the witness, shall be paid by the petitioner.

9. The learned trial Judge is directed to dispose of the Civil Suit as expeditiously as possible, and in any case, within a period of six months from the date of receipt of a copy of this order.

10. The Civil Revision Petitions are allowed with the above observation. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

25.11.2016

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Index : Yes/No

To

The District Munsif Cum Judicial Magistrate,

Pochampalli,

K.K.Sasidharan,J.,

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