

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.R.P.Nos.3878 and 3879 of 2015

Sundaram

... Petitioner in both the CRPs

Versus

1.Baby

2.Anburaj

3.Ashokan

4.Ananth

... Respondents in both the CRPs

These civil revision petitions are filed under Article 227 of the Constitution of India against the fair and final order dated 30.06.2015 made in I.A.Nos.310 and 311 of 2015 in M.C.O.P.No.225 of 2011 on the file of the Principal District Court, Namakkal.

For Petitioner : Mr.T.Murugamanickam

For Respondents : Mr.F.Terry Chella Raja
for RR 1 to 4

COMMON ORDER

These revision petitions have been filed by the respondent/owner against the dismissal of the petitions to set aside exparte order, reopen and recall the evidence of PW1 and PW2.

2. Heard Mr.T.Murugamanickam, learned counsel appearing for the petitioner and Mr.F.Terry Chella Raja, learned counsel appearing for the respondents.

3. The subject matter of motor accident claim is with regard to the death of first respondent's husband in the accident occurred on 29.04.2010. Since it is alleged that the petitioner's vehicle was involved in the accident and he is the owner of the offending vehicle, he has been made as party respondent in the MACTOP.No.225 of 2011. Notice was served upon the petitioner and the counsel on behalf of the petitioner filed his counter statement.

4. The enquiry commenced and chief examination of PW1 was over. The matter was posted for cross-examination of PW1 and PW2 on various dates and lastly on 10.10.2014. However, the petitioner did not choose to cross-examine PW1 and PW2. After giving opportunity to the petitioner, the evidence was closed.

5. After coming to know that the evidence was closed and he was set exparte, the petitioner filed I.A.Nos.310 and 311 of 2015 to set aside the exparte order, to reopen and recall the evidence. The said petitions were dismissed.

6. The Trial Court noted the attitude of the petitioner in filing petition after petition during the pendency of the case. It is noted in paragraph 2 of the order that M.P.No.310/2015 was the third petition and the MCOP was posted for judgement. Therefore, it is clear that the advocate, who appeared for the petitioner was bent upon to prolong the case at the instance of the petitioner or on his own. This is a normal course of practice in the Trial Courts by taking out application after application, or allow the case dismissed for default or making the court to pass exparte decree in an attempt to prolong the matter.

7. In any event, the petitions to set aside exparte order, reopen and recall the evidence were filed without appropriate grounds, when the MCOP was posted for judgement.

8. Therefore, it is very crystal clear that the petitioner has not been cooperating for disposal of the matter and he is only interested to prolong the matter. Taking note of the attitude of the party, the Trial Court rightly dismissed the applications. Hence, revision petitions are liable to be dismissed. Though heavy costs has to be slapped on the petitioner, due to judicial restraint, this Court does not award any cost.

9. The Trial Court is directed to pass order in MCOP.No.225 of 2011 on the file of Principal District Judge, Namakkal on or before 30th April, 2016. Since the matter is

posted for judgement, no further petition by any of the party is maintainable. The Trial Court is to file a compliance report before 31.05.2016. The civil revision petition fails and the same is dismissed. No costs. Call the matter for compliance on 01-06-2016.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vk

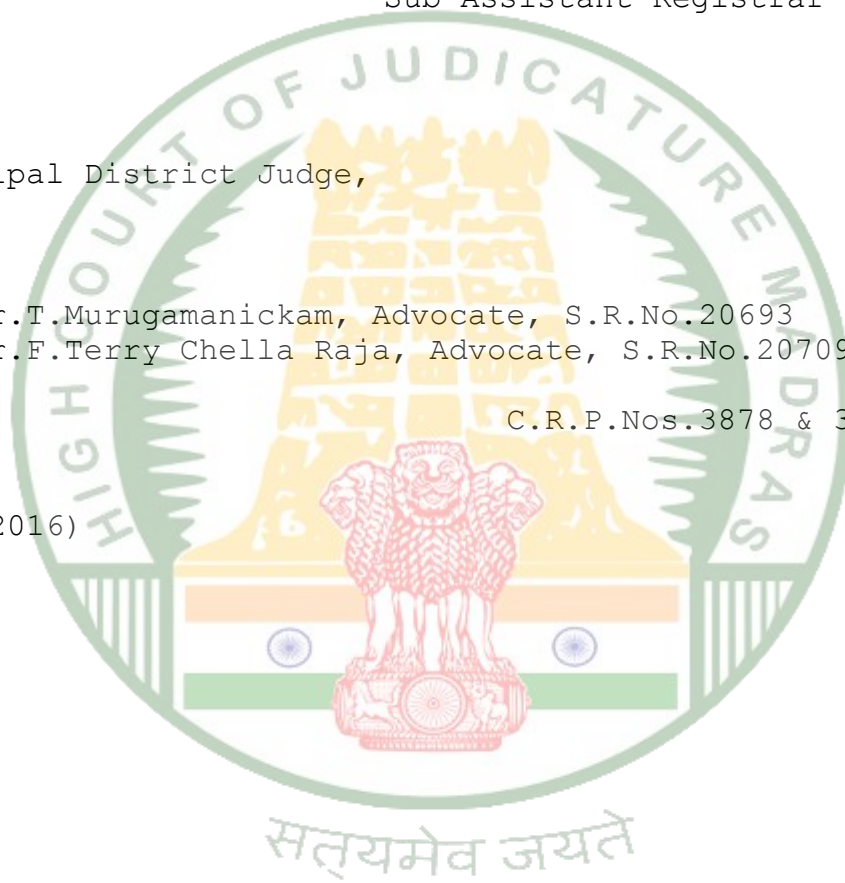
To

The Principal District Judge,
Namakkal

+1cc to Mr.T.Murugamanickam, Advocate, S.R.No.20693
+1cc to Mr.F.Terry Chella Raja, Advocate, S.R.No.20709

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BVR(CO)
CA(05/04/2016)



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