

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 14.12.2015

DATED: 05.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

C.R.P.(PD) Nos.1275 to 1277 of 2013

and

M.P.No.1 of 2013 in C.R.P.No.1275 of 2013

R.Subadra

... Petitioner in all C.R.Ps./Defendant

Vs.

K.B.Mohan

...Respondent in all C.R.Ps./Plaintiff

Prayer in C.R.P.No.1275/2013:- Petition is filed under Article 227 of the Constitution of India, against the order dated 26.02.2013 made in I.A.No.822 of 2012 in I.A.No.342 of 2012 in O.S.No.677 of 2010 on the file of the learned Additional District Judge (Fast Track Court No.I), Coimbatore.

Prayer in C.R.P.No.1276/2013:- Petition is filed under Article 227 of the Constitution of India, against the order dated 26.02.2013 made in I.A.No.823 of 2012 in I.A.No.343 of 2012 in O.S.No.677 of 2010 on the file of the learned Additional District Judge (Fast Track Court No.I), Coimbatore.

Prayer in C.R.P.No.1277/2013:- Petition is filed under Article 227 of the Constitution of India, against the order dated 26.02.2013 made in I.A.No.824 of 2012 in I.A.No.344 of 2012 in O.S.No.677 of 2010 on the file of the learned Additional District Judge (Fast Track Court No.I), Coimbatore.

In all C.R.Ps.

For Petitioner : Mr.R.Govindaraj

For Respondent : Mr.J.Hariharan for
Mr.V.Nicholas

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COMMON ORDER

Civil Revision Petition No.1275 of 2013 is filed by the petitioner/defendant, against the order dated 26.02.2013 passed by the learned Additional District Judge (Fast Track Court No.I), Coimbatore, in I.A.No.822 of 2012 in I.A.No.342 of 2012 in O.S.No.677 of 2010.

2. Civil Revision Petition No.1276 of 2013 is filed by the petitioner/defendant, against the order dated 26.02.2013 passed by the learned Additional District Judge (Fast Track Court No.I), Coimbatore, in I.A.No.823 of 2012 in I.A.No.343 of 2012 in O.S.No.677 of 2010.

3. Civil Revision Petition No.1277 of 2013 is filed by the petitioner/defendant, against the order dated 26.02.2013 passed by the learned Additional District Judge (Fast Track Court No.I), Coimbatore, in I.A.No.824 of 2012 in I.A.No.344 of 2012 in O.S.No.677 of 2010.

4. Learned counsel for the petitioner/defendant contended that the trial Court, without application of mind and without giving sufficient opportunity to the petitioner/defendant, dismissed the applications in I.A.Nos.822, 823 and 824 of 2012 filed for restoring the applications in I.A.Nos.342, 343 and 344 of 2012, which were dismissed for default on 26.09.2012, instead of deciding the above I.A.Nos.822, 823 and 824 of 2012 on merits. Hence, the learned counsel submitted that the impugned orders dated 26.02.2013 passed by the trial Court may be liable to be set aside and the Civil Revision Petitions may be allowed.

5. Learned counsel for the respondent/plaintiff contended that since there was no representation at the time of calling, the trial Court, after analysing the entire documents, correctly passed orders dismissing the applications for default and therefore, there is no

infirmary or illegality in the impugned orders passed by the trial Court and hence, he prayed that the Civil Revision Petitions may be dismissed.

6. This Court heard the submissions made by the learned counsel on either side and perused the materials available on record.

7. The orders dated 26.02.2013 passed by the trial Court in I.A.Nos.822, 823 and 824 of 2012 in O.S.No.677 of 2010 read as follows:-

"Enquiry last chance. Cases passed over at the time of calling by petitions. No representation when the cases called at 11.55 a.m. Cases called at 1.00 p.m. and no representation. Petitions dismissed for default."

8. On a perusal of the above orders, it is seen that the applications in I.A.Nos.822, 823 and 824 of 2012 in O.S.No.677 of 2010 filed by the petitioner/defendant were taken up for hearing on 26.02.2013 and at the time when the above applications were called, there was no representation and therefore, the cases were passed over. Again, the above applications were called at 11.55

a.m. and 1.00 p.m. At that time also, there was no representation. Since there was no representation for the petitioner/defendant when the cases called on three times, the trial Court, except no other option, dismissed the applications for default. Hence, the argument of the learned counsel for the petitioner that instead of deciding the applications on merits, the trial Court dismissed the same for default, is not at all acceptable, since the petitioner herself was absent at the time when the cases were called on three times. Even though the cases were called on three times, the petitioner was absent and hence, the applications were dismissed. The orders of the trial Court in dismissing the applications for default are absolutely correct and there is no infirmity or illegality in the said orders. Hence, the Civil Revision Petitions are liable to be dismissed.

9. In the result, the Civil Revision Petitions are dismissed. However, liberty is given to the petitioner/defendant to file petitions for restoring the above applications before the trial Court according to law. No costs. Consequently, connected Miscellaneous Petition is closed.

05.01.2016

Index :Yes / No

Internet :Yes / No
Jrl

G.CHOCKALINGAM, J.

Jrl

To

1. The Additional District Judge,
Fast Track Court No.I,
Coimbatore.
2. The Record Keeper,
V.R. Section, High Court, Madras.

Order in

C.R.P.(PD).Nos.1275 to 1277/2013

05.01.2016