

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NOS.3031 AND 3032 OF 2016
AND CMP NO.15341 OF 2016

1.V.S.Ramakrishnan
2.S.R.Saraswathi

.. Petitioners
in both CRPs'

Versus

M.Natarajan

... Respondent
in both CRPs'

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 19.01.2016 passed in I.A.Nos.760 of 2015 and 761 of 2015 respectively, in O.S.No.11 of 2007 on the file of the Sub Court, Mettur.

For Petitioners : Mr.P.Mani
For Respondent : Mr.C.Jagadish

COMMON ORDER

The petitioners filed two applications before the Subordinate Court, Mettur, in I.A.Nos.760 of 2015 and 761 of 2015 to reopen and recall D.W.1 for further cross examination. The applications were dismissed by the Trial Court primarily on the ground that the

questions intended to be put to the witnesses have already been put, while he was examined as D.W.1. Feeling aggrieved by the order passed by the Trial Court dismissing the applications in I.A.Nos.760 and 761 of 2015, the petitioners are before this Court.

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

3. The factual matrix indicates that after the cross examination of D.W.1, the petitioners filed the application to recall D.W.1, for further cross examination, and particularly for the purpose of marking an award. The award was marked as Ex.X1. It was only thereafter the petitioners filed the applications to recall D.W.1 for the purpose of further cross examination with reference to Ex.X1.

4. The learned Trial Judge dismissed the applications with an observation that the questions intended to be put to the witnesses have already been put to D.W.1., with reference to Ex.X1 and as such, there is no need for recalling the witness for further cross examination.

5. The respondent has not opposed the plea made by the petitioners to recall D.W.1 for further cross examination, with respect to document in Ex.X1.

6. Since the document has already been marked, the petitioners were justified in making a request to reopen and recall D.W.1., for further cross examination, so as to enable them to put questions with respect to the document marked as Ex.X1. This aspect was not considered by the learned Trial Judge. I am therefore of the view that the order passed by the Trial Court is liable to be set aside.

7. In the result, the order dated 19.01.2016 is set aside. The applications in I.A.Nos.760 of 2015 and 761 of 2015 in O.S.No.11 of 2007 are allowed.

8. The learned Trial Judge is directed to recall D.W.1 for further cross examination. The cross examination should be confined to the document marked as Ex.X1.

9. The learned Trial Judge is further directed to dispose of the civil suit in O.S.No.11 of 2007, as expeditiously as possible, and in any case, on or before 30 April 2017.

10. The Civil Revision Petitions are allowed with the above observation. No costs. Consequently, connected civil miscellaneous petition is closed.

16.11.2016

TK

To

The Subordinate Court
Mettur.

K.K.SASIDHARAN, J.

TK

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