

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) Nos.356 and 357 of 2016

and

C.M.P.No.1891 of 2016

1. Selvamani
S/o.Kanniyappan

2. Malarvizhi,
W/o.Selvamani
All are residing at
No.14, Rajaji Street,
Cheyyar Town,
Tiruvannamalai District

... Petitioners in both CRPs

vs.

Bharathiyar Finance
Rep by Partner
C.L.B.Pari,
S/o.C.L.Balasundaram,
No.27, Pavadaimoorthi Koil Street,
Cheyyar Town, Tiruvannamalai District

... Respondent in both CRPs

Prayer in C.R.P.Nos.356 and 357 of 2016

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 09.12.2015 passed in I.A.Nos.522 and 523 of 2015 respectively in O.S.No.44 of 2012 on the file of the Sub Court, Cheyyar, Thiruvannamalai District.

For Petitioner : Mr.P.Mani
in both CRPs

COMMON ORDER

The defendants in O.S.44 of 2012 on the file of the Sub Court, Cheyyar are the petitioners in the present revisions preferred under Article 227 of the Constitution of India.

2. The revisions stand listed today for admission. The arguments advanced by Mr.P.Mani, learned counsel for the petitioners are heard. The impugned order of the trial Court and the copies of the other documents produced in the form of typed set of papers are also perused.

3. The respondent herein filed the above said suit for recovery of money due under the suit promissory note jointly executed by the petitioners herein. The suit is contested by the petitioners on the basis of the defence plea that they did not borrow any amount on the date of execution of the suit promissory note and that a blank promissory note signed and handed over by the petitioners to the respondent on an earlier occasion has been filled up and the suit came to be filed against them. Based on the said pleading, the petitioners herein / defendants cross examined the plaintiff's side witnesses and after the closure of the evidence on the side of the plaintiff, they also let in evidence on their side. When the matters stood listed for

hearing arguments, the petitioners chose to file I.A.Nos.522 of 2015 and 523 of 2015 to re-open the case and to re-call PW-1 for further examination. The supporting affidavit simply states that PW-1 was not cross-examined with regard to certain aspects and for that purpose the case should be re-opened and PW-1 should be re-called. What are the aspects with regard to which the petitioners omitted to cross examine PW-1 have not been elaborated in the affidavit filed in support of the petitions.

4. The only plea taken by the petitioners/defendants in their written statement is that they did not borrow any amount on the date of the suit promissory note and that a blank promissory note signed and handed over by the plaintiff on an earlier occasion was filled up and the suit came to be filed. What was the earlier occasion and under what circumstances a blank promissory note was signed and handed over to the plaintiff has also not been spelt out in the written statement. The plaintiff's side witnesses could have been cross examined only with regard to those aspects. If any omission took place that could be viewed as a deliberate omission.

5. Even otherwise, the petitioners have not chosen to produce the certified copy of the deposition of the P.W-1 to show that

he was not cross-examined with reference to certain particular aspects, which are vital and that such omission would not be deliberate and it could be accidental. As such, the attempt made by the petitioners by filing two interlocutory petitions for re-opening the case and re-calling P.W-1 shall be viewed as an attempt to prolong the case as long as possible.

6. The learned trial Judge has not committed any error in dismissing the said application. This Court does not find any justification to interfere with the orders of the trial Court in these Civil Revision Petitions.

7. There is no merit in the Civil Revision Petitions and the same are bound to be dismissed at the threshold. Accordingly, both the Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

22.02.2016

Index: Yes/No
Internet: yes/No
srn

To

The Sub Court, Cheyyar, Thiruvannamalai District.

P.R.SHIVAKUMAR.J

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