

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NOS. 3649 AND 3650 OF 2016
AND CMP NO.18575 OF 2016

1.V.Sivasamy
2.S.Rajendran

... Petitioners 1&2
in both CRPs'

Versus

1.T.Subbulakshmi
2.S.Rukkumani

... Respondents 1&2
in both CRPs'

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and final order dated 24.09.2016 made in I.A.Nos.941 of 2015 and 942 of 2015 respectively, in O.S.No.104 of 2010 on the file of the Subordinate Court, Pollachi.

For Petitioners : Ms.P.T.Asha
for M/s.Sarvabhauman Associates

COMMON ORDER

The petitioners long after the conclusion of trial and more particularly after posting the matter for arguments, filed two interlocutory applications in I.A.Nos.941 of 2015 and 942 of 2015

praying for an order to reopen the evidence and recalling P.W.1 for further cross examination. The learned Trial Judge having found that sufficient opportunity was given to the petitioners to cross examine P.W.1, earlier dismissed the applications. Those two orders are under challenge in these Civil Revision Petitions.

2. The learned counsel for the petitioners contended that it was only when the counsel for the petitioners made preparation for arguing the case, it was found that certain vital questions were not put to P.W.1. It was only under such circumstances, the applications in I.A.Nos.941 and 942 of 2015 were filed before the Trial Court. According to the learned counsel, the Trial Court without giving adequate reasons, dismissed the applications and as such, the impugned orders are liable to be set aside.

3. The documents available on record indicates that the petitioners cross examined P.W.1 at length and thereafter, the evidence on their side was recorded. The petitioners for the reasons best known to them, failed to file applications before the Trial Court, to reopen and recall P.W.1. immediately after the completion of cross examination. In case, the petitioners were of the view that they have not put certain

vital questions to P.W.1, they should have filed applications before opening their evidence. It was clearly an afterthought to overcome the evidence tendered, the present applications were filed to reopen and recall P.W.1. There is no question of recalling P.W.1 for further cross examination without indicating sufficient reasons. The only reason given in the applications is that certain vital questions were not put to P.W.1. The learned Trial Judge considered the request and rightly dismissed the applications. I do not find any error or illegality in the order passed by the learned Trial Judge warranting exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

4. In the upshot, I dismiss these Civil Revision Petitions. No costs. Consequently, connected miscellaneous petition is closed.

24.11.2016

TK

To
The Subordinate Court
Pollachi.

K.K.SASIDHARAN, J.

TK

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