

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.847 of 2016

&

C.M.P.No.4703 of 2016

Sakunthala

.. Petitioner

vs.

R.Lakshminarayanan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 12.01.2016 made in I.A.No.1470 of 2015 in O.S.No.872 of 2012 on the file of I Additional District Munsif Court, Salem.

For Petitioner : Mr.T.Murugamanickam

For Respondent : Mr.A.Sakthivel

ORDER

This revision arises out of an order of the trial Court dated 12.01.2016 made in I.A.No.1470 of 2015 in O.S.No.872 of 2012 pending on the file of I Additional District Munsif Court, Salem.

2. The petitioner is the defendant and the respondent is the plaintiff in the above said suit. After the parties submitted their pleadings, issues were framed and the case was made part-heard by the examination of the PW1 in-chief. Thereafter, for a number of hearings, the erstwhile counsel of the petitioner herein/defendant did not cross-examine PW1, which eventually led to the closing of the evidence of PW1 and adjourning of the matter for further evidence on the side of the plaintiff.

3. At this juncture, the petitioner herein/defendant filed the above said application for recalling PW1 for cross-examination. The petition was resisted by the respondent herein/plaintiff. The learned trial Judge sustaining the objection raised by the respondent herein/plaintiff, dismissed the application by the impugned order dated 12.01.2016. The said order is challenged in the present revision filed under Article 227 of the Constitution of India.

4. The respondent has entered a caveat and on service of notice, he has entered appearance in this revision through counsel. The submissions made on both sides are heard.

5. The learned counsel for the petitioner submits that the failure to cross-examine PW1, when offered to be cross-examined, was due to the difference of opinion between the petitioner herein and her erstwhile counsel and that hence, she had to change the counsel and apply for recalling of PW1.

6. The said contention that there was difference of opinion, which resulted in the non-cross examination of PW1, has not been seriously disputed. On the other hand, the respondent seems to have raised an objection only on the ground that a delay was caused and hence, the petition could not be bonafide.

7. On the fact that the reason assigned by the petitioner has not been seriously disputed by the respondent being brought to the notice of the learned counsel for the respondent, learned counsel for the respondent submits that if a condition fixing a time limit within which PW1 should be cross-examined is imposed by this Court, the respondent may not have any objection for allowing this Civil Revision Petition at the stage of admission itself. The said submission seems to be reasonable. The learned counsel for the petitioner is also agreeable for such a condition.

Hence, the Civil Revision Petition is allowed. The impugned order of the trial Court dated 12.01.2016 made in I.A.No.1470 of 2015 in O.S.No.872 of 2012 is set aside and I.A.No.1470 of 2015 shall stand allowed. PW1 shall present himself in the Court below for being cross-examined. Such cross-examination should be completed within a week from today. No costs. Consequently, the connected miscellaneous petition is closed.

18.03.2016

Index: Yes/No
Internet: yes/No
gpa

To

I Additional District Munsif Court
Salem

Note:
Issue order copy on
18.03.2016

P.R.SHIVAKUMAR.J.,

gpa

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