

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) Nos.990 and 991 of 2016
and C.M.P.No.5604 of 2016

Sara Premkumar

... Petitioner in both CRPs.

Versus

P.Kanchana

... Respondent in both CRPs.

CRP (PD) No.990 of 2016: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 07.09.2015 made in I.A.No.384 of 2015 in O.S.No.217 of 2013 on the file of the Principal District Munsif, Alandur.

CRP (PD) No.991 of 2016 : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 07.09.2015 made in I.A.No.385 of 2015 in O.S.No.217 of 2013 on the file of the Principal District Munsif, Alandur.

For Petitioner in
both CRPs. : Mr.T.S.Vijaya Raghavan
For Respondent in
both CRPs. : No appearance

COMMON ORDER

The Trial Court, after posting the matter for arguments, allowed the applications filed by the respondent in I.A.Nos.384 and 385 of 2015 to reopen the evidence on the side of the petitioner being the plaintiff and recall her for further cross examination. The said order is under challenge in this

civil revision petition.

2. The learned counsel for the petitioner contended that the petitioner was cross examined at length by the learned counsel for the respondent. The respondent thereafter changed her counsel four times and finally, when the matter was posted for arguments, the present Interlocutory Applications were filed to re-open the evidence on the side of plaintiff and to re-call P.W.1 for further cross examination. According to the learned counsel, the affidavit filed in support of the applications does not contain any reason much less justifiable reason to re-open the evidence on the side of the plaintiff and re-call P.W.1 for further cross examination. The learned counsel, by placing reliance on para 8 of the order dated 7th September 2015, contended that even the Trial Court made an observation that the issue raised by the respondent is a matter to be decided by adjudicating the disputed questions. The impugned order is therefore liable to be set aside.

3. None appears on behalf of the respondent.

4. The petitioner filed the suit for declaration that the unilateral cancellation of settlement deed dated 30.11.2012 is null and void and for permanent injunction. The suit was resisted by the respondent by filing written statement.

5. The respondent cross examined the plaintiff at length. The cross examination appears to have been over long back.

6. Subsequently, the respondent filed two interlocutory applications in I.A.Nos.384 and 385 of 2015 to re-open and recall P.W.1 for further examination. In the affidavit filed in support of the applications, the respondent herein contended that she wanted to cross examine the petitioner with regard to the material circumstances under which she was forced to execute the settlement deed.

7. The learned trial Judge found that the matter was posted for arguments and the attempt of the respondent in filing those applications is condemnable. Even thereafter, the trial Judge allowed the application and re-opened the matter for further cross examination of P.W.1.

8. The respondent has given certain reasons which made her to recall P.W.1 for further cross examination. These are essential matters which should come from the mouth of the respondent. In short, it is for the respondent to plead the circumstances under which she executed the deed of settlement and subsequently, how the deed has been cancelled. There is no question of recalling P.W.1 after posting the matter for arguments.

9. The learned trial Judge proceeded as if one more opportunity

should be given to the respondent to bring to light certain facts. Since the respondent cross examined P.W.1 sufficiently long back and put questions on all aspects covering the issue raised in the suit, there is no question of re-opening the evidence and that too after posting the matter for arguments. The trial Court was not correct in allowing the applications filed by the respondent.

10. In the result, the order dated 07.09.2015 is set aside. The applications in I.A.Nos.384 and 385 of 2015 are dismissed.

11. In the upshot, I allow the Civil Revision Petitions. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2016

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To

The Principal District Munsif,
Alandur.

K.K.SASIDHARAN, J.
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