



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (MD) No.1149 of 2016 (PD)
and
C.M.P. (MD) .No.5683 of 2016

V.Somasundaram .. Petitioner/Respondent/Defendant

Vs.

M/s. Easan Electric,
Rep. Through its Proprietor
S.N.Arunachalam
having office at
351/1, Mudangiyar Road,
Rajapalayam,
Virudhunagar District. .. Respondent/Petitioner/Plaintiff

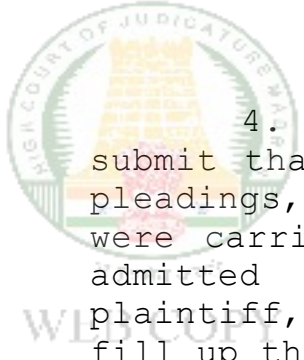
Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 01.06.2016 passed in I.A.No.111 of 2016 in O.S.No.73 of 2015 on the file of the Principal District Judge, Virudhunagar District at Srivilliputhur.

For Petitioner : Mr.J.Ashok

This revision is directed against the order passed by the learned Principal District Judge, Virudhunagar District at Srivilliputhur in I.A.No.111 of 2016 in O.S.No.73 of 2015.

2. The respondent as plaintiff instituted a suit against the petitioner, claiming a sum of Rs.4,99,520/- along with subsequent interest at the rate of 12% per annum. The suit is being contested by the petitioner by filing written statement. It will show that the plaintiff filed an application in I.A.No.111 of 2016 to recall his evidence of PW1 for further evidence. The application was resisted by the petitioner stating that the present stand of the plaintiff is contrary to the pleadings and the evidence of PW1. However, the Trial court allowed the application. Against the order, the present revision is filed.

3. Heard the learned counsel for the petitioner as well as the respondents and perused the records.



4. Mr.J.Ashok, learned counsel for the petitioner would submit that PW1 was already cross-examined in the case and in the pleadings, it was categorically stated that all electrical works were carried by the plaintiff namely Easan Electric. It is also admitted by PW1 was in his cross-examination and now the plaintiff, taking different stand filed this application only to fill up the lacuna.

5. He relied upon the order passed by this Court in C.R.P.Nos.1118 to 1120 of 2015, in support of his contention.

6. It is observed from the case cited by the learned counsel for the petitioner, after entire evidence of the parties were over an application was filed to reopen and recall their witness. In the context, this Court held that a party cannot be permitted to recall a witness for the purpose of marking some documents. But, in the case on hand, the evidence of the plaintiff is not over and the Trial court having found that the plaintiff should be given an opportunity to prove his case, rightly allowed the application.

7. The discretion exercised by the Trial Court cannot be upset by this Court in this revision. In fine, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To
Principal District Judge,
Virudhunagar District at Srivilliputhur.

+1cc to M/s.J.Ashok, Advocate in SR.No.30990

SDR/ARK-PV/28.06.2016/2P/3C

C.R.P(MD)No.1149 of 2016(PD)