



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2567 of 2016 (PD)

and

C.M.P(MD)No.12090 of 2016

T.R.Vivekanandam

.....Petitioner/ Petitioner

Vs.

R.R.Ramdoss

....Respondent/Respondent

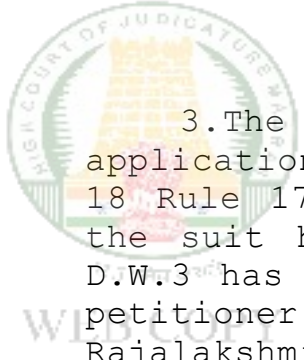
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to revise the order, dated 14.09.2016 passed by the Principal Subordinate Judge, Madurai in I.A.No.710 of 2016 in O.S.No.724 of 2009, on his file, allow the Civil Revision Petition ordering to re-open the evidence on the side of the petitioner/defendant for further clarification with cost throughout.

For Petitioner : Mr.R.A.Mohanram

ORDER

The petitioner has filed this Civil Revision Petition to revise the order, dated 14.09.2016 passed by the Principal Subordinate Judge, Madurai in I.A.No.710 of 2016 in O.S.No.724 of 2009 and allow the Civil Revision Petition ordering to re-open the evidence on the side of the petitioner/defendant for further clarification with cost.

2.The petitioner is the defendant in O.S.No.724 of 2009. The respondent filed a suit in O.S.No.724 of 2009 before the Principal Sub Court, Madurai for recovery of sum of Rs.1,94,493/-. The petitioner filed written statement and is contesting the matter and stated that Trial commenced and the evidence of respondent/plaintiff side was closed. The petitioner also was examined as D.W.4. The D.W.3 representative of the Catholic Syrian Bank was summoned by the petitioner and he gave evidence on behalf of the petitioner. After examining the witness, the petitioner filed I.A.Nos.709 and 710 of 2016 to recall and re-open the D.W.3 to clarify his evidence. According to the petitioner, it is necessary to clarify whether the evidence given by D.W.3 is



3.The respondent filed counter and opposed the said applications and stated that only the Court has power Under Order 18 Rule 17 to re-call the witness for clarification. A party to the suit has no power to recall any witness for clarification. D.W.3 has categorically stated in the Chief-examination that the petitioner has holding an account in his Bank as "Proprietor" of Rajalakshmi Mill and there is no ambiguity in the evidence of D.W.3. The petitioner when examined the D.W.5 did not raise any question with regard to evidence of D.W.3. D.W.3 has categorically stated that apart from information received from the Computer, no other document is available in the Bank and prayed for dismissal of the application.

4.The learned Judge considering the averments made in the affidavit and counter affidavit, dismissed the application held that Chief-examination of D.W.3 was further clarified by the petitioner in re-examination and D.W.3 has stated that from the available information in the computer, the petitioner is shown as "Proprietor" of Rajalakshmi Mill and no other document is available.

5.Against the said order of dismissal, the present Civil Revision Petition is filed.

6.The learned counsel for the petitioner submitted that the learned Judge failed to consider that the petitioner is called for certain documents from the Catholic Syrian Bank with regard to Rajalakshmi Mill and Bank has stated that no document is available in the Bank. D.W.3, the Official of the Bank has stated that the petitioner is the "Proprietor" of the Rajalakshmi Mill from the information available in the Computer. The learned Judge failed to see that the Bank by the letter, dated 10.08.2016 has stated that no document is available with regard to Rajalakshmi Mill. Whereas, D.W.3 has stated that the petitioner is "Proprietor" of Rajalakshmi Mill. The learned Judge failed to see this contrary statement must be clarified by D.W.3.

7.I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

8.From the materials, it is seen that the Official of the Bank was examined as D.W.3 on behalf of the petitioner and he has deposed that from the information available in the Computer, the petitioner is shown as "Proprietor" of the Rajalakshmi Mill and there is no document available in the Bank with regard to Rajalakshmi Mill. The petitioner also re-examined as D.W.3 after cross examination by the respondent. In the circumstances, the learned Judge has properly appreciated the evidence of D.W.3 and dismissed the application by giving cogent and valid reason. The learned Judge has exercised his jurisdiction properly and there is no illegality or irregularity warranting interference by this



Court.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To
The Principal Subordinate Judge,
Madurai.

+1 cc to MR.R.A.MOHANRAM, Advocate SR.No.82142

C.R.P (MD) No.2567 of 2016 (PD)
19.12.2016

SMA/AM-1/12.01.2017:3P/3C