



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD).Nos.2613 and 2614 of 2016

and

CMP(MD).No.12317 of 2016 in CRP(MD).No.2613 of 2016

T.G.Navaneetha Krishnan(died)

N. Renuka (died)

1.N. Sureshkumar

2.N. Sudharson

3.N.Balaji

: Petitioners in both CRPs/Petitioners/
Defendants

Vs.

Gunasekarn(died)

1. G. Radha

2. G. Vignesh

3. G. Agalya

: Respondents in both CRPs / Respondents/
Plaintiffs

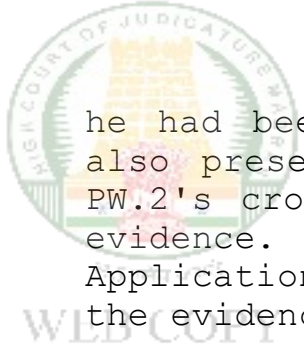
Prayer in both CRPs: These Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the order dated 29.08.2016 in I.A.Nos.229 and 230 of 2016 in O.S.No.25 of 2006 on the file of the learned I Additional District Judge (PCR), Thiruchirappalli

For Petitioner : Mr. R. Maheswaran in both CRPs

O R D E R

These Civil Revision Petitions are filed to set aside the order dated 29.08.2016 passed in I.A.Nos.229 and 230 of 2016 in O.S.No.25 of 2006 on the file of the learned I Additional District Judge (PCR), Thiruchirappalli

2. The revision petitioners are defendants in O.S.No.25 of 2006 on the file of the learned I Additional District Judge (PCR), Thiruchirappalli. The respondents filed the suit recovery of money based on the alleged promissory note. The suit was posted for cross examination of PW.2. Due to non appearance of PW.2 the case was adjourned to various dates. Finally, when the suit was posted on 21.04.2016, PW.2 was appeared and due to stomach upset



he had been forced to attend the natural call and his advocate also present in some other Court, the learned Judge closed the PW.2's cross examination and posted the suit for defendants side evidence. Therefore, the petitioners filed an Interlocutory Applications in I.A.Nos.229 and 230 of 2016 to recall and reopen the evidence of PW.2 for cross examination.

3. According to the petitioners, the fourth petitioner / fourth defendant in Interlocutory Applications was present on all hearing dates including on 21.04.2016. When the fourth petitioner went out the Court to attend the natural call, at that time the case was called and the learned counsel for the petitioners was also not present as he was attending cases in the some other Court. The learned Judge considering the fact that PW.2 was not present for the last three occasions for being cross examination and that petitioners counsel was ready to cross examination of PW.2 allowed both the applications on condition that petitioners pay a sum of Rs.1,000/- in each applications.

4. Aggrieved by the same, the present Civil Revision Petitions have been filed.

5. The learned counsel appearing for the for the petitioners submitted that the learned Judge having held that PW.2 was not present on three occasions for cross examination and the counsel for the petitioners was ready to cross examine the PW.2, the learned Judge erred in ordering the petitions on payment of cost.

6. I have heard the learned counsel appearing for the petitioners and perused the materials available on record.

7. From the records it is seen that the suit is of the year 2006 and the petitioner was not present for the three hearing and when he was present on 21.04.2016, he had gone to attend the natural call at the time when the case was called for cross examination of PW.2 and there was no representation on behalf of the petitioner. Therefore, the evidence on behalf of PW.2 was closed and suit was posted for defence evidence. The learned Judge considering the reasons given by the petitioners for reopen and recall, allowed both the applications on condition to pay a sum of Rs.1000/- in each application.

8. Considering the fact that the suit is of the year 2006 and that the petitioners failed to cross examine PW.2, when he was present on 21.04.2016 there is no error in order of the learned Judge awarding cost allowing the applications on condition of payment of cost Rs.1000/- in each applications.

9. In the result the Civil Revision Petitions are dismissed and the time for payment of cost is extended for a period of two



weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

WEB COPY

/True Copy/

Sub Assistant Registrar

trp

To

The learned I Additional District Judge (PCR),
Thiruchirappalli

COPY TO:

THE SECTION OFFICER, V.R.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

JAM/02.02.17/RR-BS/ 3P-3C

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