



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE C.T.SELVAM

C.R.P (PD) (MD) NOS.323 and 324 of 2016

and

C.M.P. (MD) NOS.1398, 1399, 3782 and 3794 of 2016

C.R.P (PD) (MD) NOS.323 and 324 of 2016

1.P.K.N.Krishnasamy

2.Moorthy

...Petitioners/Petitioners/Defendants

.vs.

1.Pankajam

2.Giri

..Respondents/Respondents/Plaintiffs

PRAYER in C.R.P (PD) (MD) NO.323 of 2016: Civil Revision Petition filed under Article 227 of the Constitution of India praying this Court to set aside the order in I.A.No.573 of 2015 in O.S.No.43 of 2009, dated 12.01.2016, passed by the learned Subordinate Judge, Theni.

PRAYER in C.R.P (PD) (MD) NO.324 of 2016: Civil Revision Petition filed under Article 227 of the Constitution of India praying this Court to set aside the order in I.A.No.574 of 2015 in O.S.No.43 of 2009, dated 12.01.2016, passed by the learned Subordinate Judge, Theni.

For Petitioners : M/s.N.Dilip Kumar
in both C.R.Ps'

For Respondents : M/s.R.Saravanan
in both C.R.Ps (No appearance)

COMMON ORDER

Heard Mr.N.Dilip Kumar, learned counsel for the Petitioners in both revisions. The learned counsel for the respondents is not present.

2.The matter had been heard at length on 12.04.2016 and this Court called for a report regarding the status of I.A.No.341 of 2014 in O.S.No.43 of 2009, on the file of learned Sub-ordinate Judge, Theni. A report, dated 21.04.2016 has been submitted by the learned Sub-ordinate Judge, Theni.

3.The present Civil Revision Petitions arise against the dismissal of I.A.Nos.573 and I.A.No.574 of 2014, wherein, Petitioners/defendants sought re-opening of evidence towards marking a Forensic expert report and to examine the expert. In filing such petitions, the Petitioners have lost sight of the fact that reliefs claimed under I.A.Nos.573 and 574 of 2014 has already been sought in I.A.Nos.341 and 342 of 2014 and came to be granted under orders, dated 11.10.2014. Respondents/plaintiffs also have failed to inform the position in their counter. In such circumstances, the Court below has



dismissed I.A.Nos.573 and 574 of 2014, informing that interlocutory applications seeking similar relief in I.A.No.63 of 2014 and I.A.No.340 of 2014 had already been dismissed on 17.04.2014 and 04.10.2012 respectively. The dismissals referred to came about in circumstances where this Court under orders in Crl.O.P(MD)No.6624 of 2011 stayed the filing of a final report in case registered in Crime No.61 of 2010, for offences punishable under Sections 468, 471 and 420 of IPC and on a complaint preferred by the Petitioners/defendants against the Plaintiffs. Such Crl.O.P(MD)No.6624 of 2011 had been dismissed on 16.06.2014. Learned counsel for Petitioners submits that subsequent thereto, charge -sheet has been filed. Pursuant to the order in I.A.No.342 of 2014, P.W.1 has been re-called for cross-examination and learned counsel for Petitioners submits that cross-examination of such witness was completed.

4.We are of the view that I.A.Nos.573 and 574 of 2014 came to be filed merely by mistake and owing to having lost sight of the order passed in I.A.No.341 of 2014, dated 11.10.2014. The report of the learned Sub-ordinate Judge, Theni informs of compliance with the conditional order passed therein by the Petitioners and does not inform that proceedings in I.A.No.341 of 2014 have reached finality.

5.This Court would dispose of the present Civil Revision Petitions with a direction to the Petitioners to work out their rights in keeping with orders in I.A.No.341 of 2014, dated 11.10.2014. The Court below shall now proceed further in I.A.No.341 of 2014 and permit petitioners to take steps towards causing appearance of Forensic Expert before the Court below for the purpose of his examination and marking of the Forensic Report. Both sides may be permitted to examine such further witnesses as may be found appropriate. Accordingly, the civil revision petitions are disposed of. Consequently, connected Civil Miscellaneous Petitions are closed. No costs.

Sd/
Assistant Registrar(W)

/TRUE COPY/

Sub Assistant Registrar(C.S)
Madurai Bench of Madras High Court,
Madurai.

To

The Subordinate Judge,
Theni.

+1cc to M/S.N.Dilipkumar, Advocate in SR.No.23565

C.R.P (PD) (MD) NOs.323 and
324 of 2016
and

C.M.P. (MD) Nos.1398, 1399,
3782 and 3794 of 2016
22.04.2016