



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.373 of 2016 (PD)

and

C.M.P.(MD)No.1627 of 2016

Linga Sekar

.. Petitioner

Vs.

Balakannan

.. Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, to set aside the order, dated 30.11.2015 on the file of the learned II Additional District Judge, Tiruchirappalli, in I.A.(S.R.)No.2864 of 2015 in O.S.No.163 of 2013.

For Petitioner : Mr.M.Siddharthan
For Respondent : Mr.S.Sethuraman

ORDER

The petitioner is the defendant. The respondent filed a suit for recovery of a sum of Rs.40,01,842/- with subsequent interest from the date of plaint, till the date of recovery of the suit with costs. In the said suit, trial was commenced and the petitioner took number of adjournments and after that, the suit was decreed ex-parte for two times. The petitioner filed application to set aside the ex-parte decree. The petitioner cross-examined the plaintiff witness and evidence of the respondent/plaintiff was closed. The petitioner examined D.W.1 and D.W.2 and sought time for further evidence. The petitioner filed a petition for adjournment for further evidence. The said application was dismissed on 30.11.2015 and evidence on behalf of the petitioner was closed and posted on 07.12.2015 for arguments. Against that, the petitioner has come out with the present Civil Revision Petition.

2.The learned counsel for the petitioner submitted that the learned Judge erred in dismissing the petition for adjournment to let in further evidence. The evidence of D.W.3 is necessary to prove the case of the petitioner and disprove the claim of the respondent.



3.Mr.S.Sethuraman, learned counsel, who took notice for the respondent, contended that on earlier occasions the petitioner did not appear before the Trial Court and the suit was decreed as ex-parte and after taking 16 adjournments, the petitioner filed petition, for adjournment and the same was dismissed. The order of the learned Judge, is valid and correct. He further submitted that at twice, the suit was decreed ex-parte and the same was set aside. Even after that, the petitioner took number of adjournments, for further evidence on behalf of the petitioner and at that stage also, he filed a petition, for adjournment for adducing further evidence. On 13.11.2015, the learned Trial Judge has rejected the request of the petitioner and closed the evidence of the petitioner and posted for further arguments. Subsequently, arguments of the respondent was heard and the petitioner took time for filing written arguments. Though time is granted for filing written arguments, it was not filed. Finally, it was adjourned to 11.01.2016.

4.I have heard Mr.M.Siddharthan, learned counsel appearing for the petitioner and Mr.S.Sethuraman, learned counsel appearing for the respondent and carefully perused the entire materials on record.

5.From the materials on records, it is seen that, the petitioner had taken number of adjournments for cross-examination of P.W.1. The suit was decreed ex-parte at twice. The same was set aside on petition filed by the petitioner. Even after that petitioner taken number of adjournments and finally suit was posted for further evidence on behalf of petitioner. At that time also he sought for adjournment. In the circumstances, the learned Judge rejected the request of the petitioner by order dated 30.11.2015 impugned in this Civil Revision Petition. Subsequently, the petitioner undertook to co-operate for conclusion of Trial before end of January, 2016. After that he has filed present Civil Revision Petition. The learned Judge considering the attitude of the petitioner in dragging on the proceedings, dismissed the petition, for adjournment, filed by the petitioner. There is no illegality or irregularity in the order passed by the learned Judge, warranting interference by this Court.

6.Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/



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To

The II Additional District Judge,
Tiruchirappalli

+1cc to Mr.S.Sethuraman, Advocate Sr.No.8844
am
AA/NGM-SS/03.03.2016/3p-3c

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15.02.2016