

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.4.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1356 & 1357 of 2017
and
CMP.No.6353 of 2017

Subbathal, W/o.Late Somasundaram

.. Petitioner
in both the C.R.Ps.

Vs.

Poosappan S/o.Sadaiyappa Gounder

.. Respondent
in both the C.R.Ps.

Prayer in both the C.R.Ps.: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decretal order dated 01.12.2015, made in I.A.Nos.582 and 585 of 2015 in O.S.No.296 of 2013 on the file of the I Additional Sub Court, Erode.

For Petitioners

: Mr.D.Gopal

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal order dated 01.12.2015, made in I.A.Nos.582 and

585 of 2015 in O.S.No.296 of 2013 on the file of the I Additional Sub Court, Erode.

2. Since the issues involved in both the Civil Revision Petitions are one and the same, they are heard together and disposed of by this common order.

3. The respondent is the plaintiff and the petitioner is the defendant in the suit in O.S.No.296 of 2013 on the file of the I Additional Sub Court, Erode. The respondent filed the above suit for recovery of money. The petitioner filed the written statement and he is contesting the suit. Trial commenced. The respondent examined P.Ws.1 and 2 and closed his side. The case was posted for evidence on behalf of the petitioner. At that stage, the petitioner has filed I.A.Nos.582 and 585 of 2015 to reopen the case and recall P.Ws. 1 and 2 for further cross examination.

4. According to the petitioner, some important questions are not put to P.W.1 and P.W.2 at the time of cross examination.

5. The respondent filed counter affidavit and opposed the said applications. It is stated that after elaborate cross examination of P.W's 1 and 2 on the side of the petitioner, respondent's side evidence was closed. Further, it is stated that the petitioner has not given any valid reason for filing the applications and that only to drag on the proceedings, the petitioner has come out with the present applications and prayed for dismissal of both the applications.

6. The I Additional Sub Court, Erode after considering the averments made in the affidavit and the counter affidavit and also considering the materials available on record, dismissed the applications holding that the petitioner has not given any valid reason for reopening and recalling P.Ws.1 and 2 and the intention of the petitioner is only to drag on the proceedings.

7. Against the said order of dismissal dated 01.12.2015, the petitioner has come out with the present Civil Revision Petitions.

8. The contention of the learned counsel for the petitioner is that as per the Judgement of the Hon'ble Apex Court, the

application for reopening and recalling the evidences must be considered liberally. The intention of the petitioner is not to drag on the proceedings and the petitioner has filed applications immediately.

9. This contention of the learned counsel for the petitioner is untenable. The applications for reopening and recalling the evidences must be considered on merits and according to the facts and circumstances of each case. Evidences cannot be reopened and witnesses cannot be recalled to fill up the lacuna.

10. In the present case, except stating that certain vital questions were not put to P.Ws.1 and 2, the petitioner has not given any other reasons. The reason given by the petitioner for reopening and recalling the evidences is not acceptable and is not a valid one.

11. In the circumstances, this Court does not find any infirmity in the order dated 01.12.2015 passed by the I Additional Sub Court, Erode, warranting interference by this Court.

12. In the result, both the Civil Revision Petitions are dismissed. No costs. Consequently, C.M.P.No.6353 of 2017 in C.R.P.No.1356 of 2017 is closed.

Index :Yes/No
Internet :Yes/No
kua

17.4.2017

To

The I Additional Sub Court,
Erode.

V.M.VELUMANI,J.

kua

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