

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD) Nos.166 of 2017 and 167 of 2017
and C.M.P.No.672 of 2017

1. K.Balasikhamani
2. B.Gurubagiam
3. B.Sudha
4. M/s.Gokul Builders and Estate (Madras) Ltd
Represented by its Managing Director
K.Balasikhamani .. Petitioners in both C.R.Ps

Versus

M/s.Bajaj Finance Ltd
Formerly known as Bajaj Auto Finance Ltd
Rep by its Area Manager-Legal .. Respondent in both C.R.Ps

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.8670 of 2016 in O.S.No.5990 of 2012 dated 26.07.2016 by the XV Assistant City Civil Court, Chennai.

For Petitioner in both C.R.Ps :Mr.S.Jayakumar

COMMON ORDER

The defendants have filed the above revision petitions to re-open and re-call the evidence of D.W.1, which was dismissed by the trial Court.

2. Admittedly, the plaintiff's side evidence was closed on 23.01.2015 and the case was posted on 03.02.2015 for the defendants' side evidence. It was adjourned several times and on 21.08.2015, the evidence of defendants was closed. On 25.08.2015, the defendants filed an application under Order 18 Rule 17 C.P.C, which was allowed on 01.09.2015 on payment of costs. On 16.09.2015, the first defendant filed his proof affidavit and again, they have taken adjournment. Therefore, D.W.1's evidence was closed on 22.12.2015. Once again, the petition to re-open and re-call the evidence of D.W.1 was filed by the defendants, which was again allowed on payment of costs on 10.02.2016. Even thereafter, the defendants were indifferent and had not been appearing in the Court. Hence, the evidence of D.W.1 was closed on 27.06.2016. Despite giving more than two opportunities to continue with D.W.1's evidence, D.W.1 had

absented himself allowing the defendants' side evidence to be closed. Thus, inspite of several opportunities being granted by the trial Court for D.W.1 to complete his chief and cross examination, the evidence of D.W.1 was closed.

3. The revision petitions have been filed by the defendants on the ground that the other defendants were also not permitted to examine. The applications filed by the defendants to re-open and re-call only D.W.1's evidence was dismissed. It is open to the defendants to examine the other defendants' side witnesses. However, the examination of any number of witnesses on the defendants' side, should be completed within three months from the date of receipt of a copy of this order and no further extension of time would be granted in this regard.

PUSHPA SATHYANARAYANA.J

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4. With the above observations, the Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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31 .01.2017

To

The XV Assistant City Civil Court,
Chennai.

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