

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).Nos.220 and 221 of 2017

and

C.M.P.No.999 of 2017 in C.R.P.(PD).No.220 of 2017

R.Gopinath

.. Petitioner in both C.R.Ps.

Vs.

1. K.S.Venkataraman

2. R.Jaya

.. Respondents in both C.R.Ps.

Civil Revision Petition No.220 of 2017 filed under Article 227 of the Constitution of India against the fair and decretal order, dated 14.09.2016 in I.A.No.233 of 2016 in O.S.No.103 of 2014 on the file of the Principal Sub-Court, Chengalpattu.

Civil Revision Petition No.221 of 2017 filed under Article 227 of the Constitution of India against the fair and decretal order, dated 14.09.2016 in I.A.No.234 of 2016 in O.S.No.103 of 2014 on the file of the Principal Sub-Court, Chengalpattu.

For petitioner : Mr.R.Ramanlal

For respondents : Mr.N.Suresh for R-1

ORDER

The first defendant who is aggrieved by the dismissal of the orders passed in applications to reopen and recall the plaintiff's side evidence, has preferred this revision petition.

2. It is the averment in the affidavit filed in support of the applications that certain important questions were omitted to be asked, which was found out only later when there was a change of counsel and hence, the reopening and recalling is sought for by the first defendant. However, it is opposed by the learned counsel for the first respondent/plaintiff that it is only an exercise of procrastination and that the same should not be allowed.

3. Heard both sides.

4. Admittedly, now P.W.1's evidence is closed. The next witness has not yet gone into the box. While so, for all purposes, it is only the continuation of P.W.1's evidence. Though in normal circumstances, the powers under Order 18 Rule 17 CPC may not be exercised for the sake of asking, as stated earlier, much water has not flown after the completion of P.W.1's evidence. Therefore, it would not be prejudicial to the plaintiff to

reopen his side evidence and recall P.W.1 to enable the first defendant to complete his side of cross-examination. However, having protracted the proceedings for this long, the same may be allowed on payment of Rs.2,000/- as costs to the first respondent/plaintiff.

5. Accordingly, the impugned orders passed by the trial Court are set aside. The Civil Revision Petitions are allowed on the following terms:

(i) P.W.1 has to appear before the trial Court or whichever Court is in-charge of the matter, on 06.02.2017, on which date, P.W.1 has to be cross-examined by the first defendant. The first defendant has to complete the cross-examination of P.W.1 on that day itself and no further extension of time will be granted.

(ii) The revision petitioner/first defendant shall pay the costs of Rs.2,000/- (Rupees two thousand only) to the first respondent/plaintiff on or before 06.02.2017.

(iii) The suit in O.S.No.103 of 2014 shall be disposed of on or before 30.06.2017.

C.M.P. is closed.

25.01.2017

Office to note:

Issue order copy on or before 27.01.2017

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Copy to
The Principal Sub-Judge, Chengalpattu.

PUSHPA SATHYANARAYANA, J

CS

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25.01.2017

