

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

CRP. (PD).Nos.4182 and 4183 of 2017
and C.M.P.No.19593 of 2017

D.Sujatha
S/o.Jaganathan proprietor J.P.Builders

..Petitioner/Petitioner/3rd Defendant
in both CRP's.

Vs.

1.J.Paramanandam

2.M/s.Star Dust Distributors Private Limited,
No.217, Dalamal Towers, Nariman Point,
Mumbai-21

3.M/s.Ganapathy Agencies,
No.3/4, 2nd Cross Street,
Raghava Reddy Colony,
Jafferkanpet, Chennai-83

..Respondents/2 & 3
Respondents/1 & 2 Defendants
in both CRPs.

COMMON PRAYER:

The Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the Order and Decretal order in I.A.Nos.10492 and 10493 of 2017 in O.S.No.108 of 2013 respectively, on the file of the VI Assistant City Civil Court at Madras, dated 21.09.2017.

For petitioner : Mr.Sachin Vijay
(in both CRP's) for Mr.V.Raghavachari

For RR1 : Mr.T.Viswanatha Rao
(in both CRP's.)

COMMON ORDER

The learned counsel for the petitioner would submit that the revision petitioner had already filed an applications in IA.No.11194 of 2016 in OS.No.108 of 2013 before the court below to reopen the evidence of DW1. The said application was allowed on cost. Further, the matter has been posted for evidence on 04.02.2017 for defendant side evidence and adjourned to 08.02.2017 and 15.02.2017. But, the third defendant had not appeared before the Court below for cross examination and DW1 cross was closed for non appearance of the third defendant on 15.02.2017, the suit posted for arguments, and plaintiff side arguments has heard on 27.07.2017 and posted for defendants side arguments. At this stage, the petitioner has filed the instant applications to recall and reopen the evidence of DW1 for marking of the documents. The aforesaid application was dismissed. Therefore, the revision petitioner has filed the present Civil Revision Petitions before this Court.

2. The learned counsel for the first respondent would submit that the conduct of the revision petitioner would clearly shows that she has not cooperated for the disposal of the suit. The revision petitioner has protracted and dragged on the proceedings. Therefore, the present applications are also filed with the intention to drag on the proceedings. But the learned counsel for the respondent would also submit that, if the petitioner undertakes, she will not protract the proceedings in future, an opportunity may be granted by this court for marking of the said documents in the aforesaid suit.

3. The revision petitioner has not appeared on several hearings before the Court below and thereafter only, the Court below has closed the evidence of DW1 and posted for arguments. In the light of the submission of the parties, an opportunity shall be granted to the revision petitioner/defendant for marking of documents. Therefore, the order of the court below is liable to be set aside.

4. Now, both the counsels undertake to appear before the court below on particular date for marking the documents as stated in the petitions.

5. In view of the above undertaking, this court is inclined to pass the following orders.

i) The impugned orders in I.A.Nos.10492 and 10493 of 2017 in O.S.No.108 of 2013 are set aside and the Civil Revision Petitions are allowed on payment of cost of Rs.3,000/- (Rupees Three Thousand only) on or before 30.11.2017 payable by the revision petitioner to the respondents.

ii) The revision petitioner shall appear before the court below on 04.12.2017 for marking of additional documents in the aforesaid suit. Thereafter, if necessary, the respondents can proceed for cross examination of the revision petitioner / the third defendant.

iii) The court below shall proceed with the suit in accordance with law after giving an opportunity to the respondents herein.

6. It will make it clear that no further time will be granted to the revision petitioner for producing the said documents.

7. In the result, the Civil Revision Petitions are allowed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The VI Assistant City Civil Court,
Madras.

+ 2 cc to Mr.T.Viswanatha Rao, Advocate,SR.83072,83071

+ 1 cc to Mr.V.Raghavachari Advocate,SR.82962

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VGII(CO)
NR 24/11/2017

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