

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAIWAMY

**C.R.P.(PD) No.1954 of 2016
and C.M.P.No.10309 of 2016**

M/s.Kaleesuwari Refinery Private Limited,
Rep. By its Legal Manager, George Thomas. ..Petitioner

-VS-

M/s.Sastha Oil Stores
Through its Proprietor, K.Mani. ..Respondent

Petition filed under Article 227 of the Constitution of India,
praying against the fair and decretal order dated 25.01.2016 passed
in I.A.No.15941 of 2015 in O.S.No.11422 of 2010 on the file of II
Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.G.Veerapathiran
for Mr.L.Muralikrishnan

For Respondent : Mr.T.M.Hariharan

* * * * *

ORDER

Challenging the order passed in I.A.No.15941 of 2015 in O.S.No.11422 of 2010 on the file of II Assistant Judge, City Civil Court, Chennai, the defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.11422 of 2010 for recovery of money. The defendant filed their written statement and are contesting the suit. When the suit was taken up for trial and after the completion of oral evidence and when the suit was posted for arguments, the defendant took out an application in I.A.No.15941 of 2015 to re-open the case for examining further witness. In the affidavit filed in support of the application, the defendant has stated that some vital documents were not available at the time of examination of D.W.1 and the same were traced only recently and therefore, they sought for re-opening the case for examining the further witness on their side. The said application was opposed by the plaintiff and the trial Court, taking into consideration the case of the both the parties, dismissed the application. Aggrieved over the

same, the defendant has filed the above Civil Revision Petition.

3.The learned counsel appearing for the petitioner submitted that the defendant wants to mark only two Income Tax documents through the person, who is in-charge of the accounts of the company. For this purpose, the learned counsel submitted that the suit may be re-opened and an opportunity may be given to the defendant to examine D.W.2 and mark the Income Tax documents, namely, the Income-tax return and the statement of accounts taken over by the Income-tax department. The learned counsel specifically stated that only for the purpose of marking these two documents, the application has been filed by the defendant.

4.In view of the submission made by Mr.G.Veerapathiran, the learned counsel for the petitioner and by Mr.T.M.Hariharan, learned counsel appearing for the respondent, I am of the view that in the interest of justice, the defendant can be given an opportunity to mark those two documents through D.W.2, who is in-charge of the accounts department of the defendant company. The learned counsel appearing for the petitioner submitted that D.W.2 will be present in Court for deposing evidence on 04.04.2017 and after the chief

examination, the plaintiff shall also complete the cross-examination of D.W.2 on the next day, that is, 05.04.2017. The defendant shall not enlarge the scope of this order by putting some other questions not relevant to the two documents sought to be marked.

5. With these observations, the fair and decretal order passed in I.A.No.15941 of 2015 in O.S.No.11422 of 2010 is set aside and the Civil Revision Petition is allowed. No costs.

6. Since the suit is pending from 2010, I direct the learned II Assistant Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No.11422 of 2010 on merits and in accordance with law within two (2) months from the date of receipt of a copy of this order.

21.03.2017

Speaking/Non-speaking order

Index : No
Internet : Yes

Note: Issue order copy by 24.03.2017.

sra

To

1. The II Assistant Judge,
City Civil Court, Chennai.

M.Duraiswamy, J.

(sra)

C.R.P.(PD) No.1954 of 2016

21.03.2017
<http://www.judis.nic.in>