

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2391 of 2013

1.Ramalingam

2.Ramachandran

...Petitioners

Vs

Murugaiyan

...Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 1.4.2013 made in I.A.No.354 of 2013 in O.S.No.278 of 2007 on the file of the District Munsif Court, Jayankondam.

For Petitioner : Ms.Vijaya

For Respondent : No appearance

ORDER

The petitioners filed an application before the learned District Munsif, Jayankondam in I.A.No.354 of 2013 to reopen the evidence on their side for examination of a witness. The application was dismissed by the learned Trial Judge. The order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioners. None appeared on behalf of the respondent.

3. The petitioners filed the suit in O.S.No.278 of 2007 before the District Munsif Court, Jayankondam against the respondent for injunction. The petitioners took summons to a witness by name Thiru.Balamurugan. The Court summons was not served on the witness. The evidence on the side of the petitioners was completed on 1 March, 2013. The learned District Munsif closed the evidence. Thereafter, the petitioners filed an application in I.A.No.354 of 2013 for re-opening and to examine Thiru.Balamurugan as a witness on their side.

4. The learned Trial Judge dismissed the said application primarily on the ground that notice to the witness was not served through Court.

5. The petitioners have already paid batta. The fact that summons was not served on the witness alone cannot be a reason to reject the request made by the petitioners to examine the said witness. Nothing prevented the learned Trial Judge from issuing fresh notice to the witness, pursuant to the request made by the petitioners. Even

otherwise, opportunity should have been given to the petitioners to produce the said witness for evidence. In view of the background facts, the impugned order is liable to be set aside.

6. In the result, the order dated 1 April, 2013 is set aside. The application in I.A.No.354 of 2013 is allowed. The learned District Munsif, Jayankondam is directed to give reasonable opportunity to the petitioners to examine the witness.

7. In the up shot, I allow the Civil Revision Petition. No costs.

07.06.2017

svki

To

The District Munsif Court, Jayankondam.

K.K.SASIDHARAN,J.

(svki)

C.R.P.(P.D.) No. 2391 of 2013

07.06.2017

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