

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3315 of 2016
& C.M.P.No.16958 of 2016

The Branch Manager
The Oriental Insurance Co. Ltd.
No.32, Sidda Virrappa Chetti Street,
Dharmapuri Town.

.. Petitioner

Vs.

P.G.Kandasamy

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 17.08.2016 made in I.A.No.131 of 2016 in O.S.No.48 of 2014 on the file of the learned Principal District Judge, Dharmapuri.

For Petitioner : Mr.Nageswaran

For Respondent : Mr.K.Gandhikumar

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 17.08.2016 made in I.A.No.131 of 2016 in

O.S.No.48 of 2014 on the file of the learned Principal District Judge, Dharmapuri.

2. The petitioner is the first defendant and respondent is the plaintiff in O.S.No.48 of 2014. The respondent filed suit for recovery of amount. The petitioner filed written statement and is contesting the suit. The respondent let in evidence and his side evidence was closed. The petitioner was examined as D.W.1. Petitioner's side evidence was closed as they did not take steps for examining witness. The petitioner filed I.A.No.131 of 2016 to reopen the petitioner's side evidence.

3. According to the petitioner, the suit was posted for further evidence on behalf of the petitioner. Due to work load, the petitioner did not pay the witness batta and present before the Court. The learned Judge closed the petitioner's side evidence. Unless the case is reopened and petitioner is permitted to let in further evidence, the Court will not be in a position to come to the correct decision.

4. The respondent did not file any counter and learned counsel for the respondent made an endorsement that he is

opposing the application.

5. The learned Judge considering the averments made in the affidavit, various dates of hearing when the petitioner was not present and also taking note of the fact that number of adjournments were taken by the counsel for the petitioner and earlier order passed in I.A.No.229 of 2015 filed by the petitioner for reopen the petitioner's side evidence, dismissed the application holding that after completion of cross examination of D.W.1, the suit was posted for further evidence of the petitioner. The petitioner paid the batta. But the same was returned. There was no representation on behalf of the petitioner either in person or through his counsel. The petitioner without giving sufficient reason to reopen the case, has come forward with the present application.

6. Against the order of dismissal dated 17.08.2016 made in I.A.No.131 of 2016, the present civil revision petition is filed by the petitioner/first defendant.

7. Heard the learned counsel for the petitioner and respondent and perused the materials available on record.

8. From the above facts, it is seen that the petitioner was given ample opportunity to let in further evidence. But the petitioner has not taken any steps to let in further evidence. The intention of petitioner is to drag on the proceedings.

9. The learned Judge considering all the facts on record properly and dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 17.08.2016.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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23.06.2017

Index : Yes/No

dm/kj

V.M.VELUMANI, J.

dm/kj

To

The Principal District Judge,
Dharmapuri.



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