



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANIC.R.P(MD)No.135 of 2017 (PD)andC.M.P(MD)No.444 of 2017

T.R.Veivekanandam

...Petitioner/ Petitioner

Vs.

R.R.Ramdoss

....Respondent/Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to revise the order, dated 14.09.2016 passed by the Principal Subordinate Judge, Madurai in I.A.No.709 of 2016 in O.S.No.724 of 2009, on his file, allow the Civil Revision Petition ordering to reopen D.W.3 for further clarification with cost throughout.

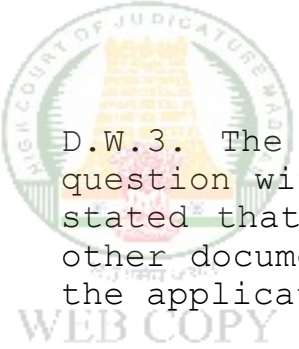
For Petitioner : Mr.R.A.Mohanram

ORDER

The petitioner has filed this Civil Revision Petition to revise the order, dated 14.09.2016 passed by the Principal Subordinate Judge, Madurai in I.A.No.709 of 2016 in O.S.No.724 of 2009 and allow the Civil Revision Petition ordering to recall D.W.3 for further clarification with cost throughout.

2.The petitioner is the defendant in O.S.No.724 of 2009. The respondent filed a suit in O.S.No.724 of 2009 before the Principal Sub Court, Madurai for recovery of sum of Rs.1,94,493/-. The petitioner filed written statement and is contesting the matter. Trial commenced and the evidence of respondent/plaintiff side was closed. The petitioner also was examined as D.W.4. The D.W.3 representative of the Catholic Syrian Bank was summoned by the petitioner and he gave evidence on behalf of the petitioner. After examining the witness, the petitioner filed I.A.Nos.709 and 710 of 2016 to recall and re-open the D.W.3 to clarify his evidence. According to the petitioner, it is necessary to clarify whether the evidence given by D.W.3 is correct or not.

3.The respondent filed counter and opposed the said applications and stated that only the Court has power Under Order 18 Rule 17 to re-call the witness for clarification. A party to the suit has no power to recall any witness for clarification. D.W.3 has categorically stated in the Chief-examination that only the petitioner is holding an account in his Bank as "Proprietor" of Rajalakshmi Mill and there is no ambiguity in the evidence of



D.W.3. The petitioner when examined the D.W.5 did not raise any question with regard to evidence of D.W.3. D.W.3 has categorically stated that apart from information received from the Computer, no other document is available in the Bank and prayed for dismissal of the application.

4.The learned Judge heard both the applications together. By elaborate order the learned Judge dismissed the I.A.No.710 of 2016 for recalling D.W.3 for clarification. In view of the said order, the learned Judge dismissed the present I.A.No.709 of 2016 for reopening.

5.Against the said order of dismissal, the present Civil Revision Petition is filed.

6.The learned counsel for the petitioner reiterated the grounds of Revision.

7.I have considered the order passed in I.A.No.710 of 2016 for recalling D.W.3 for clarification and order, dated 19.12.2016 passed in C.R.P.(MD)No.2567 of 2016. The present I.A.No.709 of 2016 was dismissed by the learned Judge in view of the order passed in I.A.No.710 of 2016. In view of dismissal of C.R.P., filed against the order dismissing I.A.No.710 of 2016, this C.R.P., is dismissed as devoid of merits.

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

Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal Sub Court,
Madurai.

Am

sva/RR/bs/06.03.2017/2p/2c

C.R.P(MD)No.135 of 2017 (PD)
21.02.2017