

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 07.12.2017****CORAM:****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.R.P. (MD) Nos. 2327 and 2328 of 2017 (PD)
and C.M.P. (MD) Nos.11243 and 11244 of 2017****In C.R.P. (MD) No.2327 of 2017:**

Balakrishnan Chettiar ... Petitioner/Petitioner/Plaintiff

-Vs-

R.M.S.Ramalingam ..Respondent/Respondent/Defendant

In C.R.P. (MD) No.2328 of 2017:

Deivanai Aachi ... Petitioner/Petitioner/Plaintiff

-Vs-

R.M.S.Ramalingam .. Respondent/Respondent/Defendant

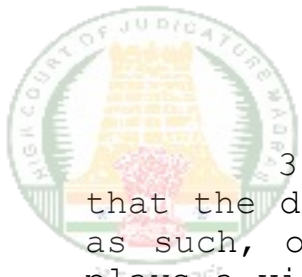
PRAYER in both petitions: Civil Revision Petitions filed under Article 227 of Constitution of India against the fair and decreetal order dated 9.8.2016 in I.A.No.828 of 2015 in O.S.No.51 of 2008 and I.A.No.829 of 2015 in O.S.No.52 of 2008 on the file of the Sub Judge, Pudukkottai.

For Petitioner : Mr.K.N.Govardhanan
(in both petitions)

C O M M O N O R D E R

The Civil Revision Petitions are filed against the fair and decreetal orders dated 9.8.2016 passed in I.A.No.828 of 2015 in O.S.No.51 of 2008 and I.A.No.829 of 2015 in O.S.No.52 of 2008 on the file of the learned Sub Judge, Pudukkottai.

2. The suits in O.S.No.51 and 52 of 2008 were filed on the file of the learned Subordinate Judge, Pudukkottai, against the respondent for recovery of money based on the promissory notes executed by the respondent. During the trial, the case was posted on 28.09.2015 for cross examination of the petitioner's side witness, who is the petitioner's husband. Due to personal work, the petitioner's husband was unable to attend the court on that day. In view of non- appearance of the petitioner on 15.10.2017, the trial court closed the plaintiff's side evidence.



3. The specific averment of the petitioner in the suit is that the defendant denied his signature in the promissory note and as such, oral evidence of the plaintiff becomes indispensable and plays a vital role in determining the issue and if the plaintiff's side witness was closed without subjecting him for cross examination, it loses its evidentiary value. Therefore, the petitioners have filed petitions in I.A.Nos.828 and 829 of 2015 to re-open the plaintiff's side evidence. The said petitions were dismissed by the trial court by citing the circular issued by this Court dated 09.08.2016.

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

5. In the considered opinion of this Court, the trial court ought to have given importance to cases, which are 5 years old and to dispose of the same at the earliest. It does not mean that reasonable opportunity should not be given to the petitioner or respondent to conduct their case to arrive at fair justice. Therefore, the orders of the trial court dismissing the applications by citing the Circular issued by this Court are liable to be set aside. Accordingly, the orders dated 09.08.2016 passed in I.A.No.828 of 2015 in O.S.No.51 of 2008 and I.A.No.829 of 2015 in O.S.No.52 of 2008 are set aside.

6. In the result, the Civil Revision Petitions are allowed. No costs. Consequently, connected C.M.P.(MD) Nos.11243 and 11244 of 2017 are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

The Subordinate Judge,
Pudukkottai.

CM

AE/MR/SAR1/17.01.2018/2P/2C

**C.R.P. (MD) Nos. 2327 and 2328 of 2017 (PD)
and C.M.P. (MD) Nos.11243 and 11244 of 2017
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