



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2017
(Reserved on 10.03.2017)

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CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD) Nos.480 and 481 of 2017
and
C.M.P (MD) No.2307 of 2017

Dr.K.Kathirvel

... Petitioner in both CRPs

vs.

1) R.Gurusankaranarayanan
2) R.Valamangai Nachiyar
3) R.Subbulakshmi
4) Sankar Devi
5) Renganayaki
(1 to 5 respondents on their behalf
as well as shareholders, promoters
directors of M/s.Kanchana Hotels Pvt Ltd.,
50, Williams Road, Cantonment, Trichy-1)

6) M/s.Kanchana Hotels Pvt Ltd.,
Rep by its Managing Director,
50, Williams Road,
Cantonment, Trichy-1.

7) G.Renganathan

8) State Industrial Promotion Corporation
of Tamil Nadu (SIPCOT)
Rep. by its Chairman and Managing Director,
No.19A, Rukmani Lakshmipathy Road,
P Box No.7223,
Egmore,
Chennai-600 008.

... Respondents in both CRPs

Petitions filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 05.10.2016 made in I.A.Nos.95 & 96 of 2016 in O.S.No.119 of 2010 on the file of the Principal District Judge, Trichy.

COMMON ORDER

These two revision petitions have been filed arising out of the order passed by the Principal District Judge, Trichy, in I.A.Nos.95 and 96 of 2016 in the pending suit O.S.No.119/2010.

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2. These two interlocutory applications were taken out by the plaintiff to recall PW1 and to permit him to mark certain documents.

3. The case of the revision petitioner/plaintiff is that certain facts are to be elucidated through the witness by marking certain additional documents to substantiate his case and to demonstrate the efforts taken by him for repayment of loan. For that purpose, leave was sought by him to reopen the case and to let in additional evidence. The suit was posted to 25.02.2016 for arguments. The said interlocutory applications were contested by the respondents by filing counter.

4. The Trial Court after hearing both sides and on perusal of the records, held that the suit was filed in the year 2010 and the plaintiff have examined 7 witnesses and has marked 135 documents on his behalf. After closing the plaintiff side evidence on 26.08.2013, the defendants have marshaled their witnesses as Dws 1 to 6 and has marked 31 documents and closed their side on 21.02.2014. Even after providing sufficient time for the plaintiff to argue the case, there was no progress, but the present applications were filed to recall PW1 and to mark additional evidence which according to the Trial Court, the plaintiff/revision petitioner has not filed I.A.Nos.95 and 96 of 2016 with due diligence and valid reason.

5. This Court totally concurs with the finding of the court below. The plaintiff who has to be vigilant and diligent in projecting his case has failed to do so. But without any acceptable reason for the delay, has come out with I.A.Nos.95 and 96 of 2016 to re-open the case and to recall PW1 whose evidence was closed more than 3 years ago, when the suit was posted for arguments, after completion of recording of evidence. If at all any prejudice is likely to cause to the plaintiff, by non examination of PW1, it is purely due to his own fault and the defendants cannot be mulcted with the liability for the fault of the plaintiff.

Hence, both the Civil Revision Petitions are dismissed. No costs. Consequently, C.M.P(MD)No.2307 of 2017 is closed.

Sd/-

Assistant Registrar(CS-III)

/True copy/



To

The Principal District Judge,
Trichy.

NBI

CSL/SKN-RSK/22.03.2017 : 3P/2C

common order made in
CRP (PD) (MD) Nos.480 and 481 of 2017
14.03.2017