



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.04.2017
CORAM

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

WEB COPY

C.R.P (MD) (PD) Nos. 777 and 778 of 2017
and
C.M.P (MD) No. 3554 of 2017

M. Raja Gopalan

... Petitioner in
both CRP

Vs.

Cholan Roadways Corporation now
Amended as Tamilnadu State Transport
Corporation Kumbakonam

by its Managing Director,
27, Railway Station New Road,
Kumbakonam 612 001.

.. Respondent in both CRP

Prayer : These Civil Revision Petitions are filed Under Article 227 of the Constitution of India to set aside the fair and decreetal order passed by the learned Additional District Sessions Judge (fast track court), Kumbakonam, Thanjavur District in I.A. Nos. 8 and 9 of 2017 in O.S. No. 218 of 2004 dated 28.02.2017 by allowing the above Civil Revision Petition.

For Petitioner
In both CRP

:: Mr. B. Jameel Arasu

COMMON O R D E R

CRP. (MD) No. 777 of 2017 is filed against the dismissal of the application filed Under Order 18 Rule 3(A), to examine the defendant, after examining other witnesses. Who are relevant to suit transaction. The Trial Court has dismissed the said application holding that the suit is of the year 2004, and the present application filed is only to drag on the proceedings.

2. CRP. (MD) No. 778 of 2017 is filed against the dismissal of the application filed by the defendant to appoint an Advocate Commissioner to examine him due to her ill-health. The Trial Court has dismissed the said application on the ground, that the service complaint is filed only to drag on the proceedings and the revision petitioner is not substantially ill and no sufficient medical records has been produced to prove ill-health.



3. The learned counsel for the revision petitioner submitted that though the revision petitioner has produced the medical records to substantially and satisfactorily establish his claim, the Trial Court mainly taking note of the pendency of the suit from 2004, has rejected the bonafide request of the petitioner.

4. Perusal of the records, indicates that PW1 was examined as early as in 2007. In his deposition, he has referred to three names of the employees of the plaintiffs Corporation namely, Needthivilankan, Selvaraj and Rajasekaran. Now application is filed that these employees are necessary witnesses to be examined.

5. Be that as it may, the revision petition ought to have been vigilant in examining those witnesses at the earliest point of time. But, he has failed to do so. Ten years after examination of PW1 present application has been filed. It is also pointed out that the revision petitioner is now 77 years old. The suit is for recovery of money filed in the year 2004. If really, the revision petitioner is interested to conduct the case, there is no impediment for him to attend the Court and give evidence.

6. On appearance of the revision petitioner if, the Trial Court is satisfied that he is not in a position to depose, it can appoint an Advocate Commissioner to examine the revision petitioner.

7. There is no merit in these revisions except the ground of sympathy which can be shown to the old man. If, he is really not in a position to stand the witness box for a long time, the Trial Court, on appearance of the revision petitioner can appoint an Advocate Commissioner to examine him.

8. With the above direction, both the Civil Revision Petitions petitions are disposed of. Consequently, connected miscellaneous petition is also closed. No costs.

Sd/-

Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To

The Additional District and Sessions Judge,
(Fast Track Court), Kumbakonam, Thanjavur District
+One cc to Mr. B. Jameel Arasu, Advocate, SR.No.52349
mm/cp

RL/3C/2P/MR/SAR3/28.4.2017

ORDER MADE IN
C.R.P (MD) (PD) Nos.777 and 778 of 2017
and
C.M.P (MD) No.3554 of 2017
13.04.2017