

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.04.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**CRP(PD).No.1264 and 1265 of 2018 &
C.M.P.No.6497 of 20181.S.Duraisamy .. Petitioners/plaintiffs in in both
CRPs

vs.

1.Rajamani
2.Ramasamy
3.Vedhanayagi .. Respondents in both
4.Uthami
CRPs

Prayer in CRP(PD)No.1264 of 2018: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.12.2017 made in I.A.No.1025 of 2017 in O.S.No.4 of 2012 on the file of the learned District Munsif Court, Kangayam, Tiruppur by allowing the Civil Revision Petition.

Prayer in CRP(PD)No.1265 of 2018: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.12.2017 made in I.A.No.1026 of 2017 in O.S.No.4 of 2012 on the file of the learned District Munsif Court, Kangayam, Tiruppur by allowing the Civil Revision Petition.

For Petitioners
in both CRPS

... M/s.N.Manokaran

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioners against the order passed in I.A.Nos.1025 and 1026 of 2017 in O.S.No.4 of 2012 on the file of the learned District Munsif Court, Kangayam, Tiruppur, dated 05.12.2017.

2. The matter is posted under the caption adjourned admission and the same is heard and disposed of at the stage of admission itself.

3. The Revision petitioners herein, as plaintiffs filed a suit against the respondents herein/defendants in O.S.No.4 of 2012 before the District Munsif Court, Kangayam, Tiruppur for declaration and permanent injunction. The same was resisted by the defendants by way of filing written statement. Pending suit, the petitioners herein have filed I.A.Nos.1025 and 1026 of 2017 praying to (i) reopen the plaintiff side evidence enabling to produce documents (ii) to recall PW1 enabling him to produce document and adduce evidence respectively. A common counter was filed by the respondents /defendants denying the averments therein, praying for dismissal of both the petitions.

4. The learned trial judge, after hearing the arguments advanced on either side, dismissed both the petitions without costs holding that the plaintiffs have filed the petitions in order to protract legal proceedings and further they have pleaded nothing about the documents sought to be produced in their plaint or even in their pleadings and hence, the same is against the principles of natural justice.

5. Aggrieved against the order passed by the learned trial Judge in I.A.Nos.1025 and 1026 of 2017, these revision petitions have been preferred.

6. The learned counsel for the revision petitioners would submit that the petitioners have filed a suit in O.S.No.4 of 2012 praying for declaration and permanent injunction and the suit was posted for arguments after completion of evidence on both sides, while so, the petitioners have obtained some vital documents and filed petitions for reopening the plaintiffs' side evidence and to recall PW1 to produce documents and adduce evidence. The trial court has not considered the fact as to whether the purpose of filing reopen and recall will have any relevance in deciding the merits of the suit.

7. Further, he would submit that denial of opportunity to file evidence at the time of trial would amount to denial of fair trial and hence the reasons given by the trial court for dismissing the petitions are incorrect and not sustainable in law, thus he prayed for allowing of these Revision Petitions.

8. Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

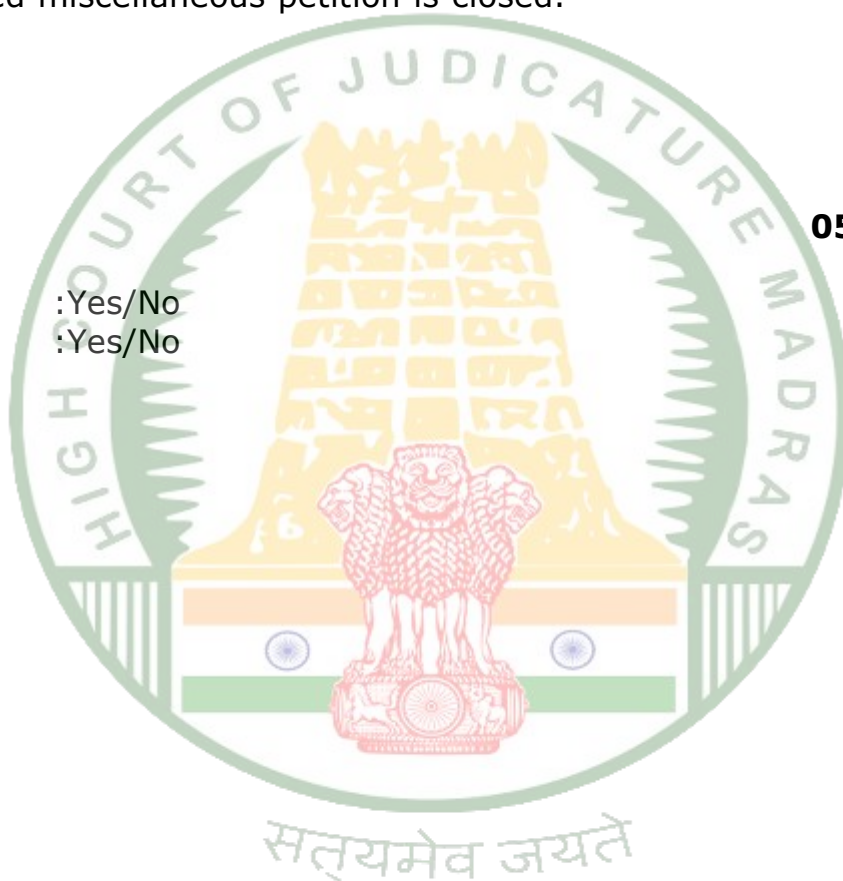
9. The trial Judge has clearly stated that there is no facts with reference to the documents sought to be produced on the side of plaintiffs in the plaint and even in the proof affidavit. The suit was filed for bare injunction and declaration. After completion of pleadings, framing of issues and closing of evidence on both sides, the suit was posted for arguments. It appears that now the suit is ripe for trial and at this stage, reopening plaintiffs' side evidence and recalling PW1 to produce documents and adduce evidence, in my considered view, would no way helpful to decide the suit. Therefore, this court finds there is no reason to interfere with the fair and decreetal order passed by the learned trial Judge and hence, the same is liable to be confirmed.

10. With the above direction, these Civil Revision Petitions are dismissed. However, being uninfluenced with the observations made in these petitions, the learned trial judge shall decide the suit purely based on merits and in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

Index
Internet
ub

:Yes/No
:Yes/No

05.04.2018

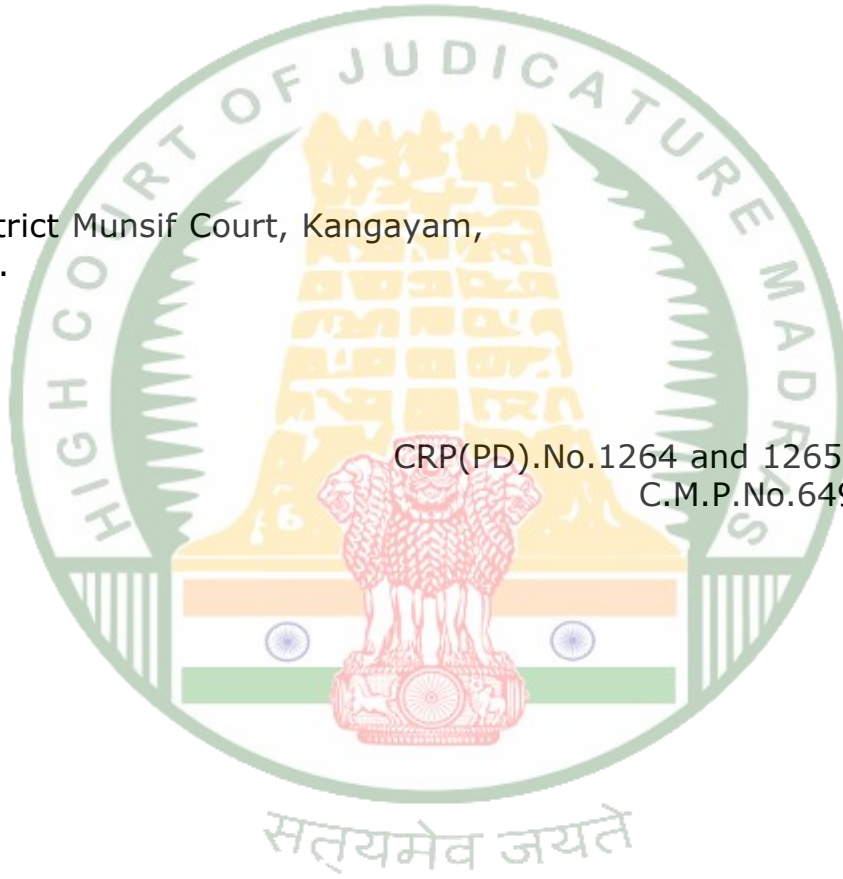


WEB COPY

P.VELMURUGAN.J,

To

The District Munsif Court, Kangayam,
Tiruppur.



CRP(PD).No.1264 and 1265 of 2018 &
C.M.P.No.6497 of 2018

05.04.2018

WEB COPY