

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2018

CORAM

THE HON'BLE MR. JUSTICE **P.VELMURUGAN**

CRP.(PD).Nos. 1638 & 1639 of 2018 and
CMP.Nos. 8823 & 8824 of 2018

V.Murugan

... Petitioner in
both CRP.

Vs.

1. B.Shankar
2.V.Balu

... Respondents
in both CRPs.

Prayer : Civil Revision Petitions filed Under Article 227 of Constitution of India, to set aside the order passed by the learned II Additional Subordinate Court, Villupuram dated 19.04.2017 in I.A.No.119 of 2018 and I.A.No.120 of 2018 in O.S.No.140 of 2009 respectively.

For Petitioner
in both Revision petitions : Mr.G.Sundaram

COMMON ORDER

These Civil Revision Petitions have been filed against the Order dated 19.04.2017, made in I.A.No.119 of 2018 and M.P.No. 120 of 2018 in O.S.No.140 of 2009 on the file of the learned II Additional Subordinate Court, Villupuram.

2. The first respondent filed suit against the revision petitioner in O.S.No.140 of 2009 before the learned II Additional Subordinate Court, Villupuram. The revision petitioner is arrayed as D2 in the above said suit. After completion of pleadings and also framing of issues, the trial was commenced and the P.W.1 was in the box and examined in chief and also cross examined by D.1 and the matter was adjourned for cross examination of P.W.1 by the D2. On the circumstances, the revision petitioner engaged another counsel and he filed change of vakalath and the matter was posted for next hearing on 14.03.2018 and subsequently, adjourned to 15.03.2018 and 16.03.2018 and without cross examining P.W.1, the evidence was closed. Therefore, the revision petitioner filed two applications in IA.Nos. 119 & 120 of 2018 in O.S.No.140 of 2009 for re-opening and re-calling the evidence of Plaintiff witness i.e., P.W.1. After hearing the arguments on both sides, the trial Court dismissed the above said two applications. Feeling aggrieved with the dismissal order passed by the trial Court, the revision petitioner/second defendant filed this revision petition before this Court.

3. According to the learned counsel for the revision petitioner, the revision petitioner was not given an opportunity of cross-examining and without affording opportunity, both applications have been rejected by the trial Court. Now the learned counsel for the revision petitioner is ready to cross-examine P.W.1.

4. Heard learned counsel for the revision petitioner. Though notices have been served, none appeared for the respondent. Perused the records.

5. No doubt, the revision petitioner was arrayed as D2 in this case and P.W.1 was examined in chief and also cross examined by the first defendant and the matter was posted for cross-examination of the revision petitioner/D2. The matter was took up and subsequently, it was closed. Hence the revision petitioner filed two applications in IA.Nos. 119 & 120 of 2018 in O.S.No.140 of 2009 for re-opening and re-calling the evidence of Plaintiff witness P.W.1.

6. This Court is of the view that since the application was closed and in the interest of justice and in order to give opportunity to the revision petitioner to participate in the proceedings and also cross-examine the witnesses, the order passed by the trial Court is liable to be set aside and direct to give opportunity to the revision petitioner/D2 to cross-examine the witness. Therefore, the trial Court is directed to issue summon to P.W.1 for appearance before the trial Court on 25.06.2018 and when P.W.1 is present on the said date, the revision petitioner/D2 is directed to cross-examine P.W.1, on the same day itself, without getting any further adjournments. After completion of cross-examination, the trial is directed to proceed case further in accordance with law.

P.VELMURUGAN, J.,

rts

7. With the above directions, the civil revision petitions are disposed of.
Consequently, connected miscellaneous petitions are closed. No costs.

12.06.2018

Index :Yes/No

Internet :Yes/No

Speaking order/Non-speaking order

Note :- Issue order copy
today (12.06.2018)

rts

To

1. The Presiding Officer,
II Additional Subordinate Court,
Villupuram.

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and CMP.Nos. 8823 & 8824 of 2018