

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.301 of 2018
and CMP.No.1638 of 2018

M/s.Aabonsmit Alloys Pvt Ltd.,
Rep.by its Director,
Mr.P.Muruganandam,
Registered office "Menukas" W-550,
Anna Nagar West,
Chennai 600 101.

... Petitioner

Vs

1.M/s.C.Gopal Naicker Son,
Rep.by its Managing Director,
No.1, Cochrane Basin Road,
Basin Bridge, Chennai 600 021
2.Kidao Laboratories,
Rep.by its Technical Manager,
A3 Mugappair Industrial Estate,(East),
Chennai 600 037.

.. Respondents

PRAYER

Civil Revision Petition is filed under Article 227 of the
Constitution of India to set aside the order passed on 26.10.2017 in
Unnumbered IA.SR.No.61466/2017 in OS.No.2188 of 2016 on the file
of XIII Assistant City Civil Judge, Chennai.

For Petitioner : Mr.P.S.Mercygnanammal

ORDER

According to the revision petitioner, the revision petitioner has filed an application in IA.SR.No.61466 of 2017 in OS.No.2188 of 2016 to reopen the petitioner / plaintiff side witness for re-examination. The court below has rejected the said application as not maintainable by stating that the cross examination of PW1 was completed on 16.08.2017 and PW1 was also cross examined for three days. Further, the revision petitioner had not stated any thing at the time of completion of cross examination and now it is posted for the defendant side further evidence. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. According to the revision petitioner, without giving opportunity to the revision petitioner, the court below has rejected the application on the above said grounds and hence opportunity may be granted to the revision petitioner by numbering the said application.

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

4. By considering the aforesaid facts and circumstances of

the case, this Court is of the view that rejecting the above application as not maintainable without providing opportunity to the revision petitioner is erroneous in the light of the decision of this Court in the case of *GV.Vanitha and others Vs. K.Dhanasekaran and others* reported in **2016 (5) CTC 329**. Hence, the order of the court below in IA.SR.No.61466 of 2017 is set aside. Further, the XIII Assistant City Civil Judge, Chennai is directed to number the said application, if it is in order and the same shall be considered on merits and in accordance with law including the maintainability of the application.

5. The Civil Revision Petition is disposed of with above directions. Consequently, the connected miscellaneous petition is closed. No costs.

30.01.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

lok

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D. KRISHNAKUMAR J.,

lok

To

The XIII Assistant City Civil Judge,
Chennai.



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