

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.978 & 979 of 2015
& M.P.No.1 of 2015

1.N.Palanisamy
2.P.Ananthi

.. Petitioners

Vs.

K.Gopalan

.. Respondent

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decretal orders dated 27.01.2015 made in I.A.Nos.586 & 587 of 2014 in O.S.No.84 of 2012 on the file of the Subordinate Court, Gobichettipalayam.

For Petitioners : M/s.Zeenath Begum

For Respondent : No appearance

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decretal orders dated 27.01.2015 made in I.A.Nos.586 & 587 of 2014 in O.S.No.84 of 2012 on the file of the Subordinate Court, Gobichettipalayam.

2.The parties and the issues involved in both the Civil Revision Petitions are one and the same and therefore, disposed of by this common order.

3.The petitioners are the defendants and respondent is the plaintiff in O.S.No.84 of 2012 on the file of the Subordinate Court, Gobichettipalayam. The respondent filed the said suit against the petitioners for recovery of money based on the promissory note. The petitioners filed written statement on 22.09.2012 and are contesting the suit. Trial commenced. The respondent examined three witnesses as P.W.s 1 to 3 and counsel for the petitioners cross examined the said witnesses. The respondent closed his side and the suit was posted for evidence on behalf of the petitioners. At that stage, the petitioners filed the present two applications under Section 151 of C.P.C, I.A.No.586 of 2014 to reopen the evidence on the side of the respondent and I.A.No.587 of 2014 to recall all the three witnesses, P.Ws.1 to 3 for further cross examination on the ground that after they engaged present counsel, they found that certain important questions were not put to P.W.s 1 to 3. The respondent filed separate counter affidavits and opposed the said

applications. The learned Judge considering the averments in the affidavits and counter affidavits, dismissed both the applications.

4.The learned counsel for the petitioners relied on the judgment reported in **(2011) 11 SCC 275 (K.K.Velusamy Vs. N.Palanisamy)** and contended that before the suit is posted for arguments, they filed the said applications for reopen and recall and hence there is no lapse on the part of the petitioners.

5.Heard the learned counsel for the petitioners and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation either in person or through counsel.

6.From the impugned order, it is seen that the counsel for the petitioners had cross examined P.W.s 1 to 3, the witnesses of the respondent and took number of adjournments for letting in evidence on behalf of the petitioners. The reason given by the petitioners for reopening and recalling the witnesses of the respondent, P.W.s 1 to 3 for further cross examination on the ground that since they engaged the present counsel and it was found later that important

questions to be put to the P.W.s 1 to 3 are not valid ground for reopening and recalling the witnesses. For the above reason, this Civil Revision Petition is dismissed as there is no illegality or irregularity warranting interference by this Court with the orders of the learned Judge dated 27.01.2015 made in I.A.Nos.586 & 587 of 2014 in O.S.No.84 of 2012. Also the judgment relied on by the learned counsel for the petitioners does not advance the case of the petitioners.

7.In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.01.2018

Index :: Yes/No

Internet :: Yes/No

Speaking order/Non-speaking order

gsa

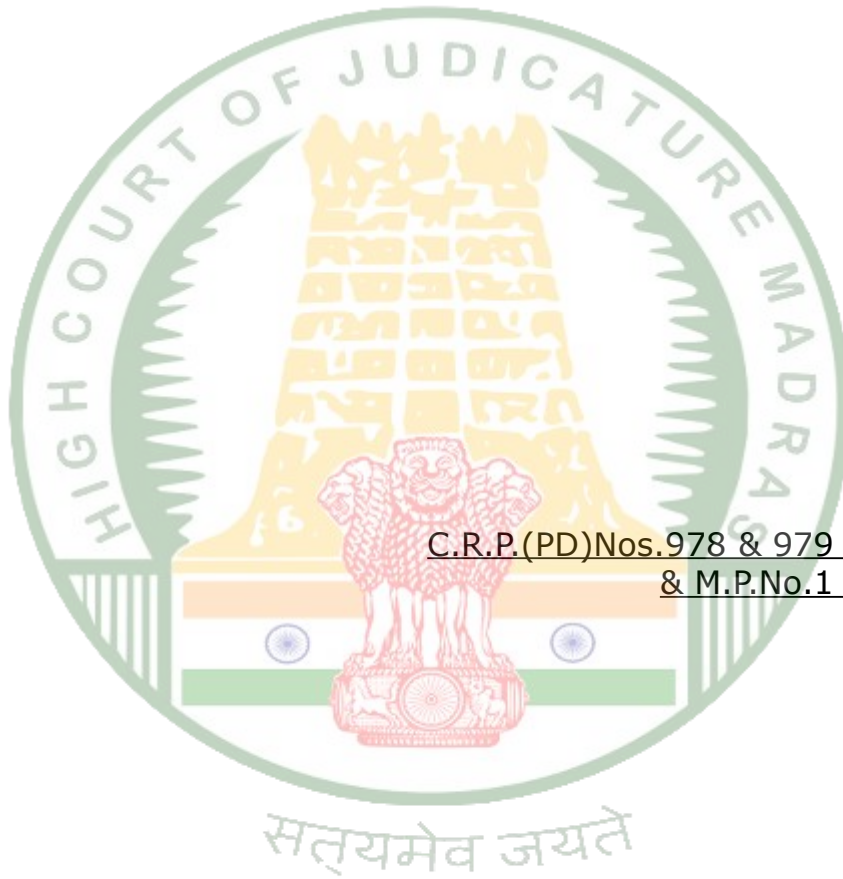
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To

The Subordinate Judge,
Gobichettipalayam.

V.M.VELUMANI,J.

gsa



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