

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2609 of 2013
and M.P.No.1 of 2013

P.Sakunthala

.. Petitioner

Vs.

M/S.Allween Dye Chem
Registered Partnership Firm
By its Partner
N.V.Kandasamy
56, Kamaraj street, Nadarmedu
Erode-2.

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 19.03.2013 made in I.A.No.6 of 2013 in O.S.No.142 of 2003 on the file of I Additional Subordinate Court, Erode.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent : Mr.V.S.Kesavan

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 19.03.2013 made in I.A.No.6 of 2013 in O.S.No.142 of 2003 on the file of I Additional Subordinate Court, Erode.

2. The petitioner is defendant and respondent is plaintiff in O.S.No.142 of 2003 on the file of I Additional Subordinate Court, Erode. The respondent filed the said suit for recovery of money. Originally, the suit was decreed by the judgment and decree dated 20.11.2009. The petitioner filed an appeal in A.S.No.6 of 2009 and in the said appeal, decree passed in O.S.No.142 of 2003 was set aside and the petitioner was directed to deposit 1/4 of the decretal amount and remanded the suit to the trial Court for fresh disposal on merits and the parties were permitted to let in further evidence. After remand, during trial, it was found that Ex.A9/ledger for the year 2002-2003 was missing from the Court records. Action was taken against the staff and respondent was directed to reconstruct Ex.A9. The respondent reconstructed Ex.A9 and filed I.A.No.6 of 2013 under Section 151 C.P.C. for receiving reconstructed Ex.A9/ledger for the year 2002-2003.

3. The petitioner filed counter affidavit and contended that a copy of the document was not furnished to the petitioner and without consent of the parties, reconstructed documents cannot be permitted to file into Court and prayed for dismissal of the application.

4. The learned Judge considering Exs.A6 to A8, A12 to A20 and A24 to A26 and averments of the respondent that Ex.A9 is reconstructed based on the entries in the day book and Ex.A9 is for the year 2002-2003 and there is no transaction for that period, allowed the application holding that objection of the petitioner is not valid and genuine and evidentiary value and genuineness of Ex.A9 can be decided only at the time of final disposal of the suit.

5. Against the said order dated 19.03.2013 made in I.A.No.6 of 2013 in O.S.No.142 of 2003, the present Civil Revision Petition is filed by the petitioner/defendant.

6. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7. The contention of the learned counsel for the petitioner is that without furnishing a copy of the document to the petitioner and without consent of the petitioner, the reconstructed document cannot be received. The said contention is without merits. Ex.A9 is the ledger, which was missing from the Court records. Hence, the learned Judge directed the respondent to reconstruct Ex.A9. On such direction, the respondent reconstructed Ex.A9 based on the entries in the daily ledger book.

8. From the impugned order of the learned Judge, it is seen that the learned Judge considering Exs.A6 to A8, A12 to A20 and A24 to A26, allowed the application holding that evidentiary value and genuineness of Ex.A9/ledger can be decided only at the time of final disposal of the suit. The learned Judge has considered all the facts in proper perspective and rightly allowed the application. There is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 19.03.2013.

9. In the result, the Civil Revision Petition is dismissed. Both the learned counsel for the petitioner and respondent submitted that after remand, arguments were heard and the suit is posted for

judgment and due to pendency of the Civil Revision Petition, judgment is not pronounced. The learned Judge is directed to dispose of the suit in O.S.No.142 of 2003 within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

01.03.2018

Index:Yes/No

kj

To

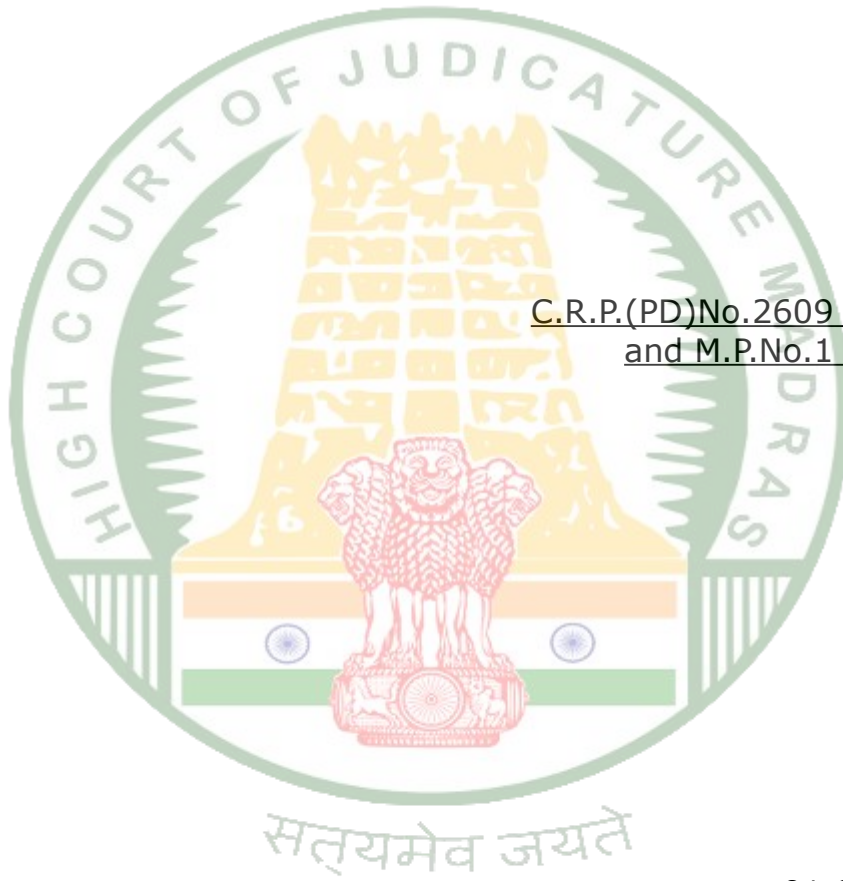
I Additional Subordinate Judge, Erode.



WEB COPY

V.M.VELUMANI,J.

Kj



C.R.P.(PD)No.2609 of 2013
and M.P.No.1 of 2013

01.03.2018

WEB COPY