



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD)No.143 of 2014 (PD)

and

M.P. (MD)No.1 of 2014

1.Gunasekaran

2.Rajavalli

... Petitioners

Vs.

Thirunavukkarasu

... Respondent

PRAYER: Petition filed under Section 227 of Constitution of India, to call for the records of the learned Sub-Judge, Pattukkottai made in I.A.No.57 of 2013 in O.S.No.30 of 2010 and to set aside Fair and Decreetal Order, dated 28.10.2013.

For Petitioners : Mr.S.Deenadhayalan

For Respondent : Mr.P.Arun Jeyaram

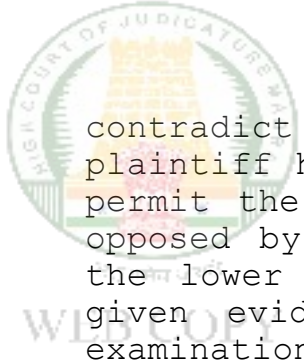
ORDER

This Civil Revision Petition is filed against the order passed by the Sub Judge, Pattukkottai in I.A.No.57 of 2013 in O.S.No.30 of 2010.

2.The brief facts that are necessary for the disposal of the Civil Revision Petition are as follows:-

The respondent in this Civil Revision Petition filed a suit in O.S.No.30 of 2010 on the file of the Sub Court, Pattukottai for recovery of a sum of Rs.2,60,080/-(Rupees Two Lakhs Sixty Thousand and Eighty only) with interest of 18% against the revision petitioners based on the promissory note alleged to have been executed jointly by the revision petitioners on 01.03.2010. The trial of the suit has commenced, the plaintiff examined himself as P.W.1 and the matter was posted for further evidence of plaintiff. At this stage, the plaintiff filed a petition in I.A.No.57 of 2013 to recall P.W.1 and to examine him to give further evidence.

3.In the affidavit filed in support of this petition, the respondents have stated that while he was cross examined, he got confused and perplexed and refuted his own documents filed in the case. Since the plaintiff was nervous at the time of cross examination, it was stated that he was not able to answer clearly. It is further stated that under a wrong impression that the documents were changed due to high blood pressure, the plaintiff gave evidence which is misleading. Therefore, it is only to



contradict the evidence given by P.W.1 during cross examination, the plaintiff has come forward with the petition to recall P.W.1 and to permit the plaintiff to give further evidence. This petition was opposed by the revision petitioners on various grounds. However, the lower Court after recording the fact that the plaintiff has given evidence and contradicted his own version during cross examination allowed the application, on the ground that earlier while giving evidence, P.W.1 was nervous and was confused. When a person gives evidence, it is open to the party himself to explain his statement by re-examining him after cross examination. In this case, the plaintiff has come forward with the case that he should be permitted to give evidence to change his own version during chief examination. In such circumstances, this Court is unable to sustain the order passed by the trial Court.

4. In the result, this Civil Revision Petition is allowed and the order passed by the Sub Judge, Pattukkottai in I.A.No.57 of 2013 in O.S.No.30 of 2010 is set aside. The application filed by the plaintiff in I.A.No.57 of 2013 in O.S.No.30 of 2010 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Sub Court, Pattukkottai.

+1cc to M/S.S.Deenadhayalan, Advocate SR.No. 68114

C.R.P. (MD) No.143 of 2014 (PD)
and
M.P. (MD) No.1 of 2014
13.06.2018

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JM/SB/SAR 3/03.07.2018/2P/3C