



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)(PD)Nos.2207 and 2208 of 2016

and

C.M.P.(MD)Nos.10206 and 10207 of 2016

1.M.Mubarak Ali

2.M.Mohamed Muzamil

... Petitioners / Petitioners /
Defendants 5 & 6
(in both petitions)

Vs.

1.A.K.M.Hawwamma

... 1st Respondent / 1st Respondent /
Plaintiff.(in both petitions)

2.Sithi Ayesha

3.Fouzia Begum

4.Zeenath Jezeema

5.Khathijathul Nooriya

... Respondents 2 to 5 / Respondents
2 to 5 / Defendants 1 to 4
(in both petitions)

Prayer in C.R.P.(MD)(PD)No.2207 of 2016: Civil Revision Petitions - filed under Article 227 of the Constitution of India, to pass an order to receive the unnumbered application and numbered in I.A.No.----- of 2016 in O.S.No.52 of 2010 on the file of the District Munsif Court, Sattankulam, for re-opening the evidence of plaintiff's side which was closed on 20.09.2016, for enabling the petitioners for cross examining the PW1 and number the same.

Prayer in C.R.P.(MD)(PD)No.2208 of 2016: Civil Revision Petition - filed under Article 227 of the Constitution of India, to pass an order to receive the unnumbered application and numbered in I.A.No.----- of 2016 in O.S.No.52 of 2010 on the file of the District Munsif Court, Sattankulam, to re-call the PW1 for cross examination by the petitioners and number the same.

For Petitioners : Mr.V.Sitharanjandas

For R-1 & R-2 : No appearance

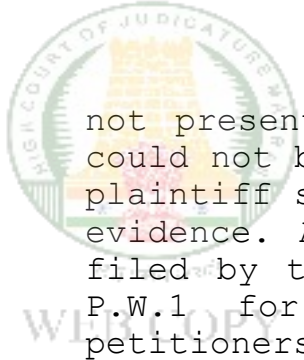
For R-3 : Not claimed

For R-5 : Door Locked

(in both petitions)

COMMON ORDER

The first respondent herein filed a suit in O.S.No.52 of 2010 on the file of the District Munsif Court, Sattankulam, seeking the relief of permanent injunction. The revision petitioners are shown as the defendants 5 and 6 in the said suit. The plaintiff examined herself as P.W.1 and the case was posted for her cross-examination on 20.09.2016. It appears that the revision petitioners' counsel was



not present in the Court on the said date and as a result, P.W.1 could not be cross-examined on that date. The Court below closed the plaintiff side evidence and the matter was posted for defendant side evidence. At that stage, the present Interlocutory Application was filed by the revision petitioners for reopening and for recall of P.W.1 for the purpose of cross-examination by the revision petitioners. The Court below had taken a view that the said application for reopening and recall of P.W.1 will be maintainable only after the defendant side is over. In view of the matter, the application filed by the revision petitioners was not even numbered and returned. Questioning the same, this Civil Revision Petition has been filed.

2. Though the plaintiff was served and entered appearance through the counsel, none appears for the plaintiff today.

3. Heard the learned counsel appearing for the revision petitioners.

4. As rightly pointed out by the learned counsel for the revision petitioners, it was a case of cross-examination. It is not as if the revision petitioners had cross-examined P.W.1 in part and after closing of the plaintiff side, this application was taken out. On 20.09.2016 certainly revision petitioners had a right to cross-examine P.W.1. Since their counsel suffered from physical ailments and had gone for medical check-up, he was not present in the Court on that day. That is why, the cross-examination of P.W.1 could not take place.

5. I am of the view that by filing this application at this stage, the time of the Court is saved and the revision petitioners cannot be charged with attempt to drag on the proceedings later. Therefore, the Court below is directed to number the Interlocutory Application and also reopen the case. P.W.1 shall be recalled and the revision petitioners shall be given one more opportunity to cross-examine P.W.1.

6. With the above directions, this Civil Revision Petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To:

The District Munsif, Sattankulam.

+1CC to Mr.V.Sitharanjandas, Advocate, SR.No.78622