

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P. Nos.3107 AND 3284 OF 2018

COMMON ORDER:

Heard Mr.R.A.Chary for petitioner.

The CRPs are directed against the order dated 01.05.2018 in I.A. Nos.262 and 263 of 2017. These two applications are filed for reopening the suit for the purpose of adducing evidence by plaintiffs/respondents and also to grant permission under Order VII Rule 14 of CPC to receive documents stated therein. On 28.12.2017, the learned trial Judge allowed both the applications and the order dated 28.12.2017 was assailed in CRP Nos.65 and 66 of 2018. This Court allowed the CRPs and remanded the matter to trial Court. The I.As were restored to the file of trial Court for decision afresh. The learned trial Judge through the order impugned in the CRPs allowed both the applications. The gist of the reasoning given by the learned judge reads thus:

“This Court holds that in the instant case, the defendant can as well raise his objection as to its admissibility at a later stage, and this Court will consider the same and pass appropriate orders thereon. The objection relating to relevancy of the document need not be decided at the time of marking the document. Though the plaintiff has not sought leave of the Court while filing documents Exs.A12 to Ex.A14, subsequent to the filing of the plaint, this Court considers the said defect is an irregularity but not an illegality.”

Mr.Chary contends that the trial Court firstly did not give opportunity to petitioner herein to make submissions and secondly,

the reasons now stated do not keep in view the directions issued by this Court while disposing of CRP Nos.65 and 66 of 2018. According to him, the permission to receive documents under Order VII Rule 14 of CPC at this stage of matter if considered, the petitioner herein will be put to hardship and prejudice. Mr.Chary further contends that the trial Court confirmed its earlier conclusions, but replenished the order with untenable reasoning. Therefore, the order impugned in the CRPs is liable to be set aside.

The contentions are merely noted and *prima facie*, this Court is of the view that the last contention referred to above is untenable. This Court while remitting the matter to trial Court has given free hand for consideration by the learned trial Judge. The learned trial Judge is justified in exercising his discretion. Unless and until it is pointed out that the discretion now exercised falls within one or the other grounds available for judicial review under Article 227 of the Constitution of India, this Court ought not to be sitting in the armchair of trial Court, substitute its reason and interdict the order. As the reasons are given and no perversity is pointed out, I am not persuaded to admit the CRPs. Further the decision relied on by the petitioner in *Lakshmi Priya Exports (India) (P) Ltd. v. Ramalingam Mills Ltd.*¹ is distinguishable. Revisions fail and are dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:22.06.2018

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¹ 2016 (3) ALD 658