

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.Nos.4132 & 4134 of 2019

and

C.M.P.No.26909 of 2019

1. S.Mohamed Ali
2. M.Parveen
3. M.Nizar Ahamed

.. Petitioners in both CRPs

Vs.

C.Mohan

.. Respondent in both CRPs

Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India seeking to set aside the fair and decreetal Orders dated 20.11.2019 passed in I.A.Nos.4 & 5 of 2019 respectively in O.S.No.11 of 2019, by the learned Additional District Judge, Dharmapuri.

For Petitioners : Mr.M.Mohamed Riyaz

For Respondent : Mr.V.R.Anna Gandhi

C O M M O N O R D E R

Present revisions have been filed against the order dismissing the petitioners' applications filed under Order XVIII Rule 17 of C.P.C. for recalling P.W.1 for cross examination and for re-producing Ex.A2.

2. The respondent herein has filed the suit in O.S.No.11 of 2019, on the file of the learned Additional District Judge, Dharmapuri, against the petitioners herein seeking a direction to the petitioners herein to pay a sum of Rs.52,94,082/- along with interest from the date of the suit.

3. The petitioners/defendants have cross examined the respondent/plaintiff on various dates and on 26.09.2019 the evidence of P.W.1 was closed and the case was posted for the evidence on the defendants side. Ex.A1 to A4 were marked on the side of the plaintiff. On two occasions the case was adjourned at the request of the defendants and the trial Court posted the case for defendants side evidence on 07.11.2019 finally and stated that failing which, on that date the defendants side evidence will be closed. At that stage, present I.As.4 and 5 of 2019 were filed to reopen and recall P.W.1 for further cross examination and for re-production of

Ex.A2. The trial Court by order dated 20.11.2019, dismissed both the applications. Now, challenging the said dismissal, present revisions have been filed.

4. Heard the learned counsel appearing for the parties and also perused the records carefully.

5. After the commencement of trial, P.W.1 was examined and through him Ex.A1 to A4 documents were marked and the defendants have also cross examined P.W.1 on various dates, thereafter the evidence on the side of the plaintiff was closed on 26.09.2019 and the matter was posted for defendants side evidence on 17.10.2019. At that stage, the earlier counsel for the defendants has withdrawn his appearance and a new counsel has entered appearance, thereafter at the request of the defendants the case was adjourned to 24.10.2019 with a condition that defendants should be examined on 07.11.2019, otherwise, the defendants side evidence will be closed. Thereafter, the present applications have been filed by the defendants to reopen and recall the evidence. Considering all the above circumstances, the Trial Court dismissed the said applications stating that already P.W.1 was thoroughly cross examined and there is no necessity for any further cross examination. By considering the materials on record, I do not find any illegality or irregularity in the same as the trial Court has rightly dismissed the applications. There is no merit in the revisions and the same are liable to be dismissed.

6. In the result, the civil revision petitions are dismissed and the orders and decreetal orders of the Court below, impugned in these revisions are hereby confirmed. Considering the facts and circumstances of the case, the learned Additional District Judge, Dharmapuri, is directed to dispose of the suit in O.S.No.11 of 2019, on merits and in accordance with law, after giving opportunity to both the parties, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kk

To

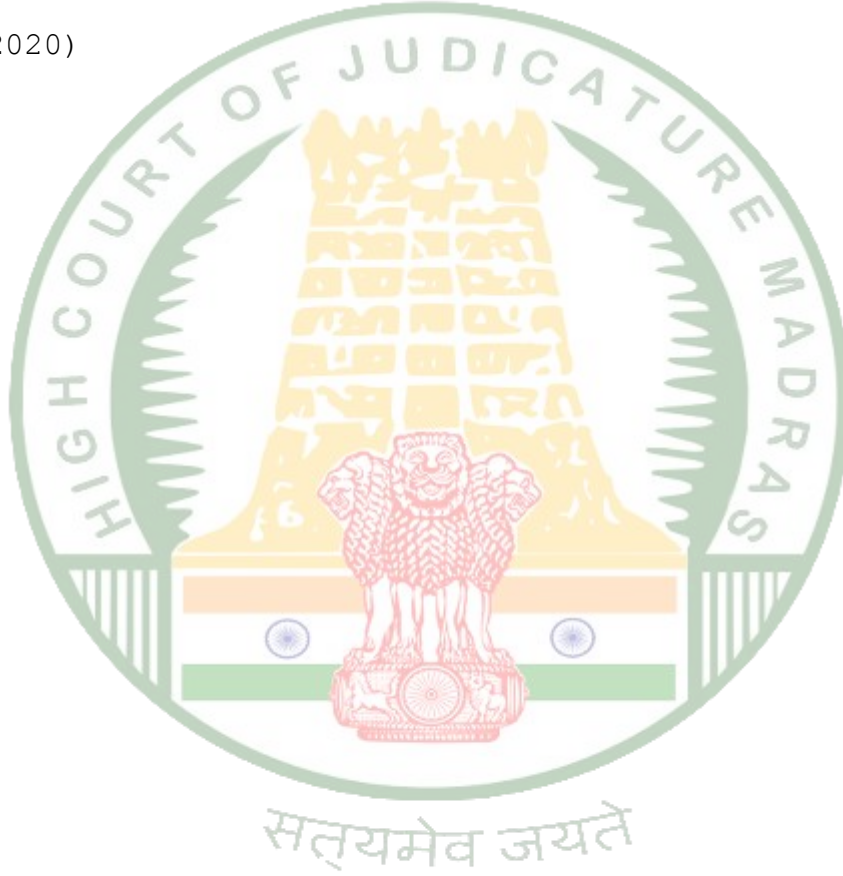
The Additional District Judge,
Dharmapuri.

+1cc to Mr.M.Mohamed Riyaz, Advocate, S.R.No. 104393

+2cc to Mr.V.R.Annagandhi, Advocate, S.R.No. 104362 & 104363

C.R.P.Nos.4132 & 4134 of 2019
and C.M.P.No.26909 of 2019

CP (CO)
GN (05/08/2020)



WEB COPY