



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .No.2129 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

Subburam

...Petitioner

Vs.

Murugesu Pandian

...Respondent

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, passed by the District Munsif Court, Vilathikulam in I.A.No.127 of 2012 in O.S.No.27 of 2006, dated 06.08.2012.

For Petitioner : Mr.M.Subash Babu
For Respondent : No Appearance

O R D E R

This Civil Revision Petition has been filed challenging the fair and final order passed by the Court below allowing the application to recall P.W.1 for further cross-examination.

2. The petitioner is the plaintiff in the suit. The petitioner has filed the suit against the respondent claiming for the relief of recovery of money based on a promissory note. The respondent had also filed a written statement and issues were framed.

3. The petitioner was examined as P.W.1 and he was cross-examined on 22.03.2012. Thereafter, the evidence on the side of the plaintiff was over and it was posted for the evidence of the defendant. At this point of time, after nearly four months, an application came to be filed for recall of P.W.1 for further cross-examination on the ground that the senior wants to cross-examine the witness.

4. The Court below has found that the application must be



allowed in the interest of justice.

5. The learned counsel appearing for the petitioner submitted that the cross-examination of P.W.1 was completed and the case was at the stage of defendant side evidence and the petition itself was filed only to drag on the proceedings.

6. The respondent has been served with notice and his name has also been printed in the cause list and there is no representation for the respondent.

7. It is seen from the records that the petitioner was examined as P.W.1 on 01.03.2012 and he was cross-examined on 22.03.2012. Thereafter, P.W.2 was examined on 26.03.2012 and he was cross-examined on 02.04.2012. P.W.3 was examined in chief on 11.06.2012 and he was also cross-examined on 25.06.2012. P.W.4 was examined in chief on 27.06.2012 and he was cross-examined on 02.07.2012. Thereafter, the evidence on the side of the plaintiff was closed and the case was at the stage of evidence of the defendant. At that point of time, the respondent has chosen to file a petition on 05.07.2012 to recall P.W.1 for further cross-examination. The only reason assigned is that the senior wants to cross-examine and that the earlier cross-examination was done by the junior Counsel.

8. The reason that has been assigned in the petition is totally unacceptable. That apart, this exercise could have been done at the earliest point of time. After P.W.1, three more witnesses were examined on the side of the plaintiff and the respondent kept quiet through out. Therefore, it is clear that the present attempt has been made only to drag on the proceedings. The Court below failed to take note of this important aspect and has allowed the application in a routine manner.

9. In the result, the fair and final order passed by the Court below in I.A.No.127 of 2012 dated 06.08.2012, is hereby set aside and accordingly, the Civil Revision Petition stands allowed. The Court below is directed to complete the proceedings in O.S.No.27 of 2006, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)



tsg
To

1.The District Munsif, Vilathikulam.

2.The Record Keeper, VR Section-2 copies
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.M.Subash , Advocate SR.No.100171

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KM/ (11.12.2019) 3P 5C