



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) Nos.190 & 191 of 2019

and

C.M.P. (MD) No.860 of 2019

K.Murugesan ... Petitioner in both C.R.Ps.,/Plaintiff

vs.

N.Annadurai ... Respondent in both C.R.Ps.,/Defendant

COMMON PRAYER:- Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order passed by the learned II Additional District Munsif, Tiruchirapalli in I.A.Nos.193 & 194 of 2018 in O.S.No.1578 of 2009 dated 06.08.2018.

For Petitioner

in both C.R.Ps, : Mr.S.K.Mani

For Respondent

in both C.R.Ps., : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed to set aside the order dated 06.08.2018 passed by the learned II Additional District Munsif, Tiruchirapalli in I.A.Nos.193 & 194 of 2018 in O.S.No.1578 of 2009.

2.Before the trial Court, the petitioner herein is the plaintiff and the respondent herein is the defendant. For the sake of convenience, the parties will be referred to as per their rant before the trial Court.

3.In the said I.A.s., the plaintiff contended that the suit in O.S.No.1578 of 2009 was posted on 07.03.2018 for the purpose of cross-examining P.W1. The plaintiff was under treatment due to his heart ailment and regarding the same, he was not in a position to appear before the trial Court for the purpose of cross-examination. As a result of the plaintiff's absence, the Court below closed the evidence of the plaintiff as P.W1 and posted the case for the examination of further P.Ws.,

4.The plaintiff has also filed a document for the ailment and his grievance is that if at all he has been cross-examined by the defendant, he can prove his case and hence, for the purpose of cross-examination by the defendant, the plaintiff has filed a petition to re-open the case and to re-call him as P.W1.



5.The defendant in his counter statement contended that several adjournments were given by the Court below for the purpose of cross-examining the plaintiff and the plaintiff did not comply with the conditional order passed on 01.03.2018. Further, the defendant contended that the plaintiff was wilfully, intentionally and wantonly disobeyed the conditional order dated 01.03.2018 and there is no medical records and also not mentioning the date, month and year for the alleged treatment taken by the plaintiff. Thereafter, the said suit was listed in the special list in the month of January 2017 and on that day, the plaintiff did not appear before the Court below, the counsel for the defendant present and the proof not filed till 05.30 p.m., and hence, the case was adjourned to 23.01.2017. Hence, the defendant contended that from the very beginning, the plaintiff has not appeared before the Court below and even a lapse of one year, he has filed his second application to recall him for the purpose of cross-examination.

6.The trial Court observed the contention raised on either side and the proceedings that were held during the said period from the date of the examination of the plaintiff and discussed the same elaborately.

7.The said suit was listed in the special list on several dates, ie., 23.01.2017, 30.01.2017, 03.02.2017 and 09.02.2017 for the purpose of examining the plaintiff, but on that days, the plaintiff did not appear before the trial Court. In spite of sufficient time given to the plaintiff from 17.08.2017 to 11.10.2017 for examining himself, he did not appear before the trial Court. Thereafter, the plaintiff filed a petition on 30.10.2017 to recall him and the same has been allowed on 29.01.2018 and thereafter, on 16.02.2018, the documents were also marked on the side of the plaintiff. Further, the case was posted for cross-examining the plaintiff and even in the cross-examination, several adjournments were given, but the plaintiff never appeared before the Court below. Further, from the discharge summary filed by the plaintiff before the trial Court, it is seen that the surgery was done to the plaintiff on 28.03.2017 and thereafter, he was discharged on 09.03.2017, whereas, the trial Court posted the case for cross examining the plaintiff till 07.03.2018.

8.In view of the above, from the documents filed by the plaintiff, it is seen that there is no specific reason stated by the plaintiff to his absence made on 07.03.2018. Since the suit is filed in the year 2009, the plaintiff has taken so much of time to cross-examine himself as P.W1. Even after the case was posted in the special list in the year 2017, the plaintiff has not come forward to proceed with the case at the earliest, which caused so much mental agony to the defendant and also caused pendency to the Court below.



9.Hence, the order dated 06.08.2018 passed by the learned II Additional District Munsif, Tiruchirapalli in I.A.Nos.193 & 194 of 2018 in O.S.No.1578 of 2009, does not require any interference of this Court, which is very much reasonable.

10.These Civil Revision Petitions are dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (SP)

/ True Copy /

Sub Assistant Registrar(CS)

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To

The II Additional District Munsif,
Tiruchirappalli.

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ES/SP/29.04.2019/3P/2C