



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.63 of 2020

and

C.M.P.No.358 of 2020

L.Muthusamy .. Petitioner/2nd Respondent/2nd Defendant

Vs.

1. M.K.Chinnappan

2. P.Santhi

3. Baranithar .. Respondents/Petitioner/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 25.11.2019, made in I.A.No.1 of 2019 in O.S.No.66 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Perundurai.

For Petitioner : Mr.N.Manokaran
For Respondents : Mr.V.S.Kesavan

O R D E R

Revision has been filed against the order permitting the first respondent / plaintiff, to examine one Mr.Palanisamy as P.W.4.

2. The petitioner is the second defendant in the suit. The first respondent/plaintiff filed the suit for recovery of possession and also for damages. After commencement of the trial, the first respondent / plaintiff examined three witnesses. At that time, the petitioner / second defendant failed to cross examine all the three witnesses on the same day. The first respondent/plaintiff is stated to have made an endorsement no more witnesses to be examined. P.Ws.2 and 3 were cross examined by the petitioner/second defendant and thereafter after closing of the plaintiff side evidence, the first respondent/plaintiff filed a fresh application in I.A.No.1 of 2019 seeking permission to examine one Mr.Palanisamy as P.W.4 and that application has been contested by the petitioner/second defendant on the ground that after making an endorsement that he has no more witness to be examined, he should not have been permitted to examine yet another witness. However, the trial Court allowed the application on the ground that opportunity should be given to the plaintiff to prove the case. Now, challenging the above, present revision has been filed.



3. I have heard the learned counsel appearing for the parties and also perused the records carefully.

4. The only grievance of the petitioner/second defendant is that after an endorsement is made by the first respondent/plaintiff that he has no further witness to examine, he should not have been permitted to examine yet another witness, considering the fact that the trial is in progress, and the plaintiff only wants to examine the attestor of receipt for balance payment in order to prove its correctness by examining additional witness before commencement of the defendant side evidence. No prejudice is going to be caused to the defendants as the defendants will get an opportunity to cross examine that witness. Considering the above, the trial Court has rightly allowed the application. I do not find any illegality or irregularity in the same as the trial Court has rightly allowed the said application. There is no merit in the revision and the same is liable to be dismissed.

5. In the result, the civil revision petition is dismissed and the fair and decreetal orders of the Court below, impugned in this revision is hereby confirmed. Considering the fact that the trial has already commenced and the suit is of the year 2008, the learned District Munsif cum Judicial Magistrate, Perundurai is directed to dispose of the suit in O.S.No.66 of 2008, on merits and in accordance with law, after giving an opportunity to both the parties, 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

//True copy//

Sub Assistant Registrar

kk

To

The District Munsif cum Judicial Magistrate,
Perundurai.

+1cc to Mr.N.Manokaran, Advocate SR.No.2902

+1cc to Mr.V.S.Kesavan, Advocate SR.No.2544

C.R.P.No.63 of 2020 and
C.M.P.No.358 of 2020

RLD (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMP (14/07/2020)