

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24..02..2020
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.779 of 2020
and
C.M.P.No.4188 of 2020

Kalaiselvi ... Petitioner /Respondent/Plaintiff
-Versus-

Kumar ... Respondent/Petitioner/Defendant

Petition filed under Article 227 of The Constitution of India, praying to set aside the order and decretal order dated 03.12.2019 made in I.A.No.3 of 2019 in O.S.No.262 of 2014 by the learned Subordinate Judge, Uthangarai, Krishnagiri District.

For Petitioner : Mr.K.Thiruvengadam

ORDER

This civil revision petition has been filed against the order allowing the application for reopening the evidence of the plaintiff and recalling P.W.1 for the purpose of cross examination.

2. The petitioner is the defendant in the suit. The suit has been filed by the respondent for specific performance of contract of agreement of sale. The trial has commenced and the plaintiff had examined herself as P.W.1 on 13.07.2018 and she was also cross examined partially on various date from 18.07.2018 to 28.08.2018. Thereafter, the matter was adjourned from time to time and finally the evidence on the side of the plaintiff was closed by the court below. Seeking to reopen the evidence and recall P.W.1 for the purpose of cross examination, the defendant filed the application under revision. The court below allowed the application on payment of cost of Rs.500/- payable to the plaintiff by the defendant. Aggrieved by the same, the plaintiff is before this court with the instant revision petition.

3. This civil revision petition is coming up today for admission. I have heard the learned counsel for the petitioner and also perused the records carefully.

4. From a perusal of the records it could be seen that the plaintiff examined herself as P.W.1 on 13.07.2018 and she was also cross examined in part on various dates from 18.07.2018 to 28.08.2018. Thereafter, it seems that the counsel, who was on record for the respondent did not appear before the court and it was reported to the court that the counsel was not feeling well and therefore, the case was adjourned from time to time. Later on it was informed to the court the counsel on record for the defendant died on 26.10.2018. Thereafter, the defendant engaged another counsel and filed the application under revision for reopening of the evidence and recall P.W.1 for the purpose of cross examination by the defendant. On considering the available materials, the court below allowed the application on payment of cost. On going through the order impugned in this revision petition, this court finds not infirmity in the reasoning given by the court below in allowing the application. Therefore, the order passed by the court below does not require any interference at the hands of this court and the revision is devoid of merit.

In the result, this civil revision petition is dismissed and the order passed by the court below is confirmed. However, considering the fact that the suit is pending since 2014, the court below is directed to proceed further with the trial and dispose of the same on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

The Subordinate Judge,
Uthangarai, Krishnagiri District.

C.R.P.No.779 of 2020

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srg 21/07/2020