

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: .26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD). No.3245 of 2018
and CMP No.18477 of 2018

Balasamy .. Petitioner

Vs.

Y.D.Irudayaraj ... Respondent

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, against the order and decretal order in I.A.No.254 of 2018 in O.S.No.41 of 2010 on the file of the Sub Court, Tiruvallur, dated 13.06.2018.

For Petitioner : Mrs.R.Sripriya for
Mr.V.Raghavachari

For Respondent : Mr.K.Balaji

ORDER

The revision is by the defendant in O.S.No.41 of 2010 against an order allowing an application in I.A.No.254 of 2018 filed by the plaintiff seeking to reopen the evidence of the plaintiff for further examination and for marking of documents.

2. The application has been allowed by the trial Court. Among other contentions, Mrs.Sripriya, learned counsel appearing for the petitioner would submit that the trial Court was not right in allowing the application in the absence of an application to recall the witness on the side of the plaintiff. It is seen from the records that only one application was filed in I.A.No.254 of 2018 under Section 151 of the Code of Civil Procedure to reopen the side of the plaintiff and no application for recalling the witness has been filed.

3. Mr.K.Balaji, learned counsel appearing for the respondent would submit that though the petitioner has filed two applications one for reopening and another for recalling, the special procedure adopted by the Sub Court at Tiruvallur is that the application for recall will be taken up only after the application for reopening is allowed.

4. This procedure in my considered opinion is unknown to law. When applications under Order 18 Rule 17 of the Code of Civil Procedure to reopen the evidence and recall the witnesses are filed, they have to be

dealt with together. Hence the order impugned in the Revision is set aside on the sole ground that it should have been heard and decided along with the application for recalling the witness also. I am not making any observation on the merits of the case. The order impugned in this revision is set aside, the application in I.A.No.254 of 2018 is remitted to the Sub Court, Tiruvallur to be heard and disposed of along with the application for reopening which is stated to be pending unnumbered before the said Court. It is also made clear that the Sub Court, Tiruvallur shall henceforth hear applications filed for recall and reopening together and not separately. No costs. Consequently, connected miscellaneous petition is closed.

26.08.2020

vum
Index: No
Speaking order

To

The Sub Court, Tiruvallur.

R.SUBRAMANIAN, J.

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