

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)Nos.881 & 884 of 2021
and
CMP.No.7234 of 2021

C.Kuppasamy

... Petitioner / Defendant in
both CRPs

Vs.

The Lakshmi Vilas Bank,
Rep. by its Manager

... Respondent / Plaintiff in
both CRPs

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the fair and final orders dated 02.03.2021, made in I.A.Nos.9 & 10 of 2020 in O.S.No.282 of 2016 on the file of the Court of the II Additional Subordinate Judge, Erode by allowing this Criminal Revision Petition.

For Petitioner in both CRPs : Mr.C.E.Pratap

For Respondent in both CRPs : No appearance

COMMON ORDER

(This case has been heard through video conference)

The defendant in O.S.No.282 of 2016 is the revision petitioner herein. O.S.No.282 of 2016 is pending before the II Additional Subordinate Court at Erode.

2.The said suit had been filed for recovery of money. The parties were invited to adduce the evidence. Witnesses for the plaintiff was examined as P.W.1 and had marked Exs.A1 to A22 and had been examined in chief on 07.08.2018. Thereafter, the matter was adjourned for cross examination of P.W.1 on 10.09.2018, 10.10.2018, 26.0.2018, 09.11.2018, 19.11.2018 and again on 25.01.2019. The defendant however did not appear and did not make any attempt to cross examine P.W.1. The evidence was closed on 11.02.2019. It was posted for further evidence and then it was posted for the evidence on the side of defendant. Again the defendant did not come forward to let in evidence. The matter was closed on 08.03.2019 and the matter was posted for arguments. When the plaintiff had argued the matter, the defendant had filed I.A.No.1 of 2019 and I.A.No.2 of 2019 to re-open and to re-call P.W.1 for cross examination. The trial Court allowed the petition on 25.04.2019 and the matter

was posted for cross examination on 06.06.2019. Then another application was filed by the defendant under Order VIII Rule 9 for reception of additional written statement and that was also allowed on 12.06.2019. Thereafter, permission was granted for cross examination of P.W.1. Even though the witness appeared on 20.06.2019 and 01.07.2019 cross examination was not done, but it was only done on 10.07.2019. Thereafter a further application was filed under Section 151 CPC in I.A.No.5 of 2019 by the defendant to scrap the evidence of P.W.1 on the ground that he was not duly authorized. The said application was dismissed on 18.11.2019. Thereafter, another application was filed to recall P.W.1 to produce the Power of Attorney granted in favour of P.W.1. These two applications were allowed and the Power of Attorney was also marked by the witness and it was again posted for cross examination of P.W.1 on 09.01.2020, 21.01.2020 and again on 30.01.2020. Thereafter there was no representation on behalf of the defendant and there was no appearance also. Again the evidence of P.W.1 was closed on 30.01.2020 and thereafter, it was posted for arguments on the side of the defendant and adjournments were granted till 16.10.2020. At that stage, I.A.No.9 of 2020 was filed to reopen the evidence on the side of the plaintiff for further cross examination of P.W.1.

3.The learned II Additional Subordinate Judge, must have become extremely frustrated by the adjournments sought by the present revision petitioner / defendant. I completely agree with the sentiments expressed wherein it had been very clearly stated that the defendant had simply refused to participate in the judicial proceedings.

4.Any litigant in Court proceedings who appears either as a plaintiff or as a defendant has two options. Either he can co-operate in the judicial proceedings by participating in it on a regular basis or he can also take up the option of abstaining and not appearing before the Court. He may hope that after several hearings he can try to attract the sympathy of the Court by filing of applications to reopen and to recall and seek permission to re-enter in to the judicial proceedings. The Courts should not encourage such an approach. In this case the learned II Additional Subordinate Judge has granted more than sufficient opportunity for the present revision petitioner to cross examine the witness for the plaintiff.

4.I do not intend to go into the explanation advanced on behalf of the revision petitioner who never participated in the trial proceedings for not cross

examining P.W.1.

5.Accordingly, these Civil Revision Petitions are dismissed.

Consequently, the connected miscellaneous petition are dismissed. No order as to cost.

20.04.2021

Index:Yes/No
Internet:Yes/No
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To

The II Additional Subordinate Judge, Erode.



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C.V.KARTHIKEYAN, J.,

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