

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.No.964 of 2021
and
C.M.P.No.7762 of 2021

Shalini Priya

... Petitioner/Petitioner/Defendant

Vs

Selvin

...Respondent/Respondent/Plaintiff

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned fair and decreetal order dated 12.03.2021 passed in I.A.No.2 of 2021 in O.S.No.2 of 2018 on the file of the Principal District Court, Perambalur.

For Petitioner

..

Mr.V.M.Venkatramana

For Respondent

..

No appearance

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ORDER

The matter originally came up on 24.07.2021 and a request was placed on the learned counsel to get further instructions on whether, the learned counsel who appeared before the Trial Court had put necessary questions in cross-examination to PW-1, on the aspects raised in the proposed additional written statement, filing of which had been rejected by the learned Principal District Judge, Perambalur.

2.Short facts leading to the filing of the Revision Petition are that the petitioner herein who is the defendant in O.S.No.2 of 2018, now pending on the file of the Principal District Court, Perambalur had filed I.A.No.2 of 2021, seeking permission to file additional written statement. The suit had been filed for recovery of money. The petitioner herein had filed written statement. Issues have been framed. Parties were invited to adduce evidence. The plaintiff in his capacity as PW-1 had let in evidence in chief examination. Later he came to the witness box to subject himself for cross-examination.

3.During cross-examination, the learned counsel appearing for the petitioner herein before the learned Principal District Court, Perambalur,

had put several questions assailing the conduct of the petitioner and also holding that the petitioner is in the habit of obtaining blank promissory notes / Negotiable Instruments and thereafter, instituting suits.

4. Questions in that regard, were not recorded by the learned Principal District Judge, on the ground that they were not pleaded in the written statement. Thereafter, the petitioner herein had filed I.A.No.2 of 2021 seeking permission to file additional written statement bringing such facts by way of an additional written statement. Permission to file additional written statement was not granted and the said application was dismissed, thereby necessitating filing of the present revision petition.

5. When these facts were stated, this Court wanted to know whether the facts as pleaded in the additional written statement were put to the witness and the learned counsel affirms that such questions have been actually put but not recorded by the learned Judge.

6. The scope of cross-examination is quite wide. Quite apart from questioning the facts pleaded in the plaint, during cross-examination, the witness should also be prepared to answer questions on his conduct and

also on the normal course of business tactics which he adopts or that the defendant alleges that he adopts. It is the case of the defendant that the plaintiff has an habit of obtaining signatures on various negotiable instruments, even before they had been filled up. Thus there is an onus cast on the plaintiff / witness for the plaintiff to clarify these aspects. I hold that necessary leverage should be given to any defendant or any party during cross-examination to put such facts and try to elucidate admissions from the witness.

7. Cross-examination cannot be curtailed. I hold the learned counsel for the revision petitioner herein / defendant in the suit should be permitted to put such questions as relating to the normal course of business adopted by the plaintiff, which the witness for the plaintiff is always at liberty to deny or to reject or even to state any other fact.

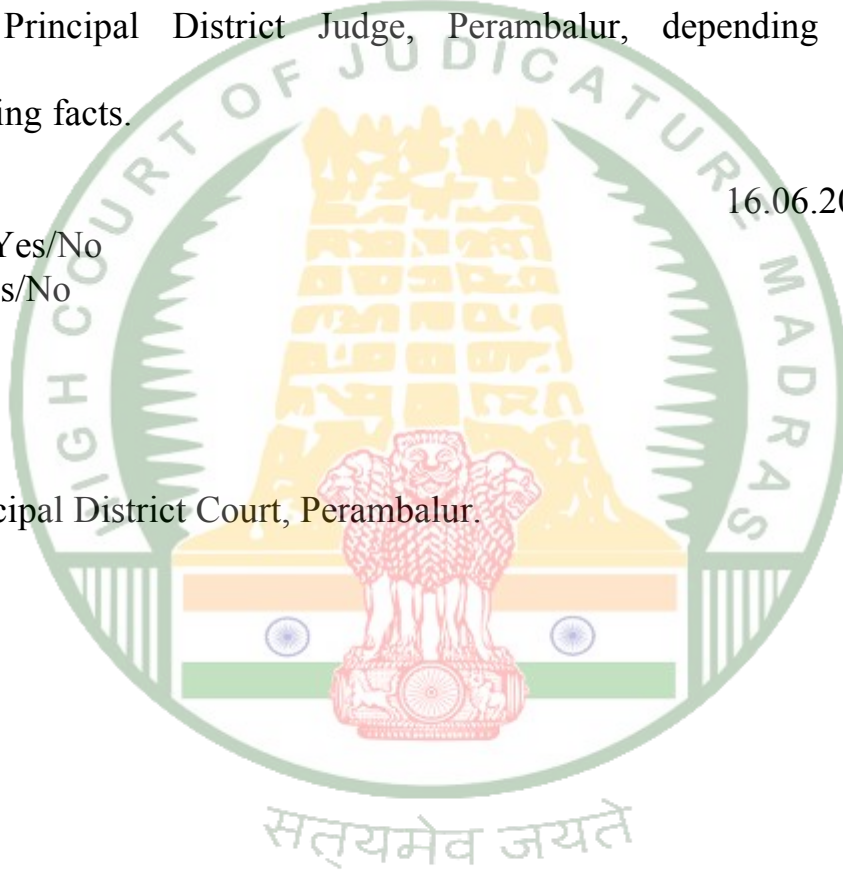
8. An additional written statement on this ground is not required. With the said observation, the Revision Petition is disposed of, with a direction to the parties to go back to the Trial Court and proceed with the case. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

9.If an application is filed seeking to recall PW-1 or to reopen the evidence of plaintiff, the reasons stated in the said affidavit may be examined and thereafter, a considered order may be passed by the learned Principal District Judge, Perambalur, depending on the surrounding facts.

16.06.2021

Internet:Yes/No
Index:Yes/No
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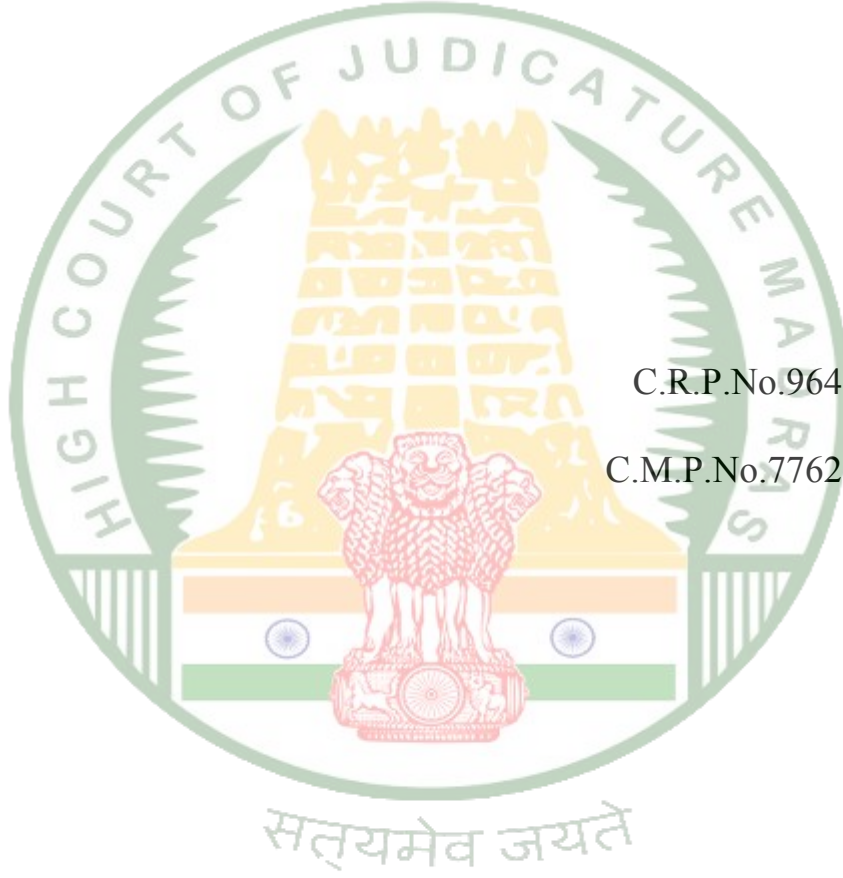
To
The Principal District Court, Perambalur.



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C.V.KARTHIKEYAN,J.

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