

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) Nos.1792 and 1793 of 2021
and C.M.P. No.13915 of 2021

A.Deenadayalan (died)

1.D.Vanaja

2.D.Aravindhkumar

3.D.Adarshkumar

1 to 3 are residing at
No.6/625, Lakshmi Nagar,
Madurai Road,
Virudhunagar - 626 001.

Petitioners /
Defendants
[in both CRPs]

versus

Kamalam

Respondent /
Plaintiff
[in both CRPs]

COMMON PRAYER: Civil Revision Petitions have been filed under Article 227 of the Constitution of India, to set aside the fair and decretal orders in I.A.Nos.4 and 5 of 2021 respectively in O.S.No.226 of 2007 dated 08.03.2021 and allow the above revision petitions.

For Petitioners

: Mr.D.Vijayan

[in both CRPs]

For Respondent

: M/s.K.Sindhuja

[in both CRPs]

COMMON ORDER

Civil Revision Petition Nos.1792 and 1793 of 2021 have been filed against the orders passed in I.A.Nos.4 and 5 of 2021 respectively in O.S.No.226 of 2007 dated 08.03.2021 by the learned District Munsif, Ambathur.

2. I.A.No.4 of 2021 was filed to reopen the case of the plaintiff and I.A.No.5 of 2021 was filed to recall P.W.1 for further cross examination. The learned counsel for the petitioners submitted that, certain important questions with regard to the Sale Agreement have been omitted to be asked to P.W.1 during the course of cross examination. Therefore, it is absolutely necessary to reopen the case for recalling P.W.1 for the purpose of further cross examination. This petition was contested by the respondent. The learned trial Judge, after considering the rival submissions, dismissed both the petitions. Against the said orders of dismissal, the present Civil Revision Petitions are preferred.

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3. The learned counsel for the petitioners reiterated the submissions that, certain important questions have been omitted to be asked to P.W.1 during the course of cross examination, therefore, these petitions.

4. The learned counsel for the respondent opposed this petition on the ground that, these petitions were filed with delay and to fill up the lacuna.

5. Considered the rival submissions and perused the records.

6. The suit was filed for the relief of specific performance of contract on the basis of Sale Agreement dated 22.05.1992. This suit was filed in 2006. It is further submitted that the examination of the witnesses, is completed and the case is pending for arguments. At this stage, the petitioners filed these petitions. Of course, there is a delay in filing these petitions for reopening the case and recalling P.W.1 for further cross examination. These petitions have been filed after examination of the witnesses on the side of the defendants. These petitions were dismissed merely on the ground that, further

cross examination cannot be entertained to fill up the lacuna. However, this Court is of the considered view that the parties must be given all the necessary opportunity before the trial Court to present their case. Therefore, the petitioners may be given an opportunity to further cross examine P.W.1 within the time to be stipulated by this Court and on payment of costs.

7. In such view of the matter, the order of the learned District Munsif, Ambathur, in I.A.Nos.4 and 5 of 2021 respectively in O.S.No.226 of 2007 are set aside. Petitioners are permitted to reopen the case for recalling P.W.1 for further cross examination. The learned District Munsif, Ambathur, is also directed to fix the date for cross examination of P.W.1 and on that day, the petitioners should complete the cross examination of P.W.1. In addition to that, the petitioners are directed to pay the costs of Rs.5,000/- [Rupees Five Thousand Only] to the respondent before the trial Court. Only on payment of costs, the petitioners are permitted to recall P.W.1 for further cross examination. Failing payment of costs, the learned District Munsif, Ambathur, is directed to proceed further with the matter and dispose of the case, on merits and in accordance with law.

8. Accordingly these Civil Revision Petitions are allowed.

Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

03.09.2021

Speaking order / Non-speaking order

Index : Yes / No

sri

To

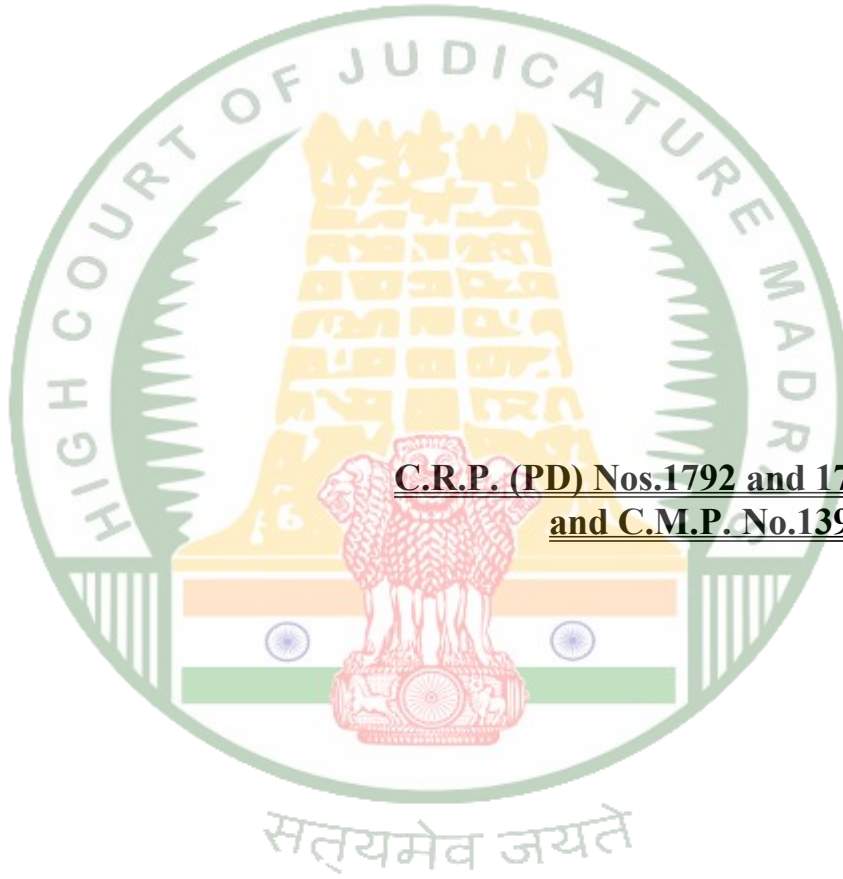
The District Munsif, Ambathur.



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G.CHANDRASEKHARAN, J.

psa / sri



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