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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)Nos.1332 & 1336 of 2021
and
CMP.No.10384 of 2021

[Through Video Conferencing]

S.N.Thyagarajan	...Petitioner / Defendant in both CRPs.
vs.	
G.P.Balasubramanian	... Respondent / Plaintiff in both CRPs.

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Fair and Decreetal Order dated 01.04.2021 made in I.A.Nos.1 & 2 of 2021 in O.S.No.54 of 2018 on the file of the learned II Additional District Judge, Vellore at Ranipet by allowing the Civil Revision Petition.

For Petitioner in both CRPs : Mr.N.Manokaran

For Respondent in both CRPs : Mr.G.P.Sivakumar,
Caveator

ORDER

The learned counsel for the Caveator appearing on behalf of the respondent was not present even on 20.07.2021 when the matter came up for admission and again the learned counsel for the respondent is not present.

2.Heard Mr.N.Manoharan, learned counsel for the revision petitioner. Subsequently, during the course of arguments, Mr.G.P.Sivakumar, learned counsel heard the proceedings but unfortunately removed himself.

3.The revision petitioner is the defendant in O.S.No.54 of 2018 which is now pending on the file of the II Additional District Court at Ranipet at Vellore.

4.The said suit in O.S.No.54 of 2018 had been instituted by the respondent on the basis of a promissory note seeking to recovery of money.



5.The revision petitioner had filed written statement. Issues had been framed. The parties had been invited to graze the witness box. The plaintiff had been examined in chief and also cross examined. It is now posted for defendant side evidence. At that stage, these two applications came to be filed namely I.A.No.1 of 2021 and I.A.No.2 of 2021 seeking permission to reopen the evidence on the plaintiff and to recall the plaintiff for further cross examination. Both the applications were dismissed by order dated 01.04.2021.

6.The Court of first instance where trial takes place, is normally expected to settle all facts and also grant permission to the parties to advance facts as known to them and also to cross examine facts as stated by the witnesses. Some latitude is always required to be given to the witnesses either when they lead evidence in chief examination or during cross examination. The entire exercise is to elicit facts.

7.In the instant case, it is the contention of the learned counsel for the revision petitioner herein that since there is an admission on execution of promissory note, a strong burden is on the revision petitioner / defendant to put forth the circumstances surrounding execution of the said promissory note. Pleadings to that effect have been stated in the written statement.

8.It is also the stand of the revision petitioner that the respondent/plaintiff did not have the means to pay the amount mentioned in the promissory note to the revision petitioner / defendant. To that extent questions were put. But however with respect to means, it is stated by Mr.N.Manoharan, learned counsel that though suggestions were put and a few more suggestions have to be put to the witnesses on that aspect. The applications came to the dismissed. The revision has been filed against the said orders.

9.The Civil Revision Petitions are therefore allowed. The orders under revision are set aside. The trial in O.S.No.54 of 2018 is to continue and since I have interfered with the orders passed in I.A.No.1 of 2021 and I.A.No.2 of 2021, P.W.1 is to be recalled for cross examination on a date fixed after getting the convenience of both the plaintiff and the defendant and on that particular date, the cross examination is to recommence and to end.

10.The entire exercise of recalling P.W.1 and cross examining P.W.1 should be completed on or before 09.09.2021. Thereafter, the further trial in O.S.No.54 of 2018 has to be conducted and the suit may proceed in accordance with procedure as laid down.



11. With the said observations, the Civil Revision Petitions are allowed. Consequently, the connected miscellaneous petition is also closed. No order as to costs.

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Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

1. The II Additional District Judge,
Vellore at Ranipet.

+2ccs to M/s. N. Manokaran, Advocate SR.No. 35233, 35234

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SR-II (CO)
RVM (12/08/2021)