IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD)Nos.3669 & 3670 of 2018
and C.M.P.No.20432 of 2018

Arvind Bagrecha ... Petitioner in both CRPs

Vs.

K.Mekala ... Respondent in both CRPs

Common Prayer :- Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 08.01.2018 in I.A.Nos.1062 & 1063 of 2017 in O.S.No.595 of 2013 respectively, on the file of the District Munsif Court, Ambattur by allowing the Civil Revision Petitions.

For Petitioner : Mr.N.Manoharan
For Mr.P.Krishnan

For Respondent : Mr.N.Rajeshkannan

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COMMON ORDER

These Civil Revision Petitions are directed as against fair and decreetal order dated 08.01.2018 passed by the learned District Munsif, Ambattur in I.A.Nos.1062 & 1063 of 2017 in O.S.No.595 of 2013 respectively, thereby dismissing the petitions to re-open and re-call P.W.1.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed suit in O.S.No.595 of 2013 to return the original property documents, cheques and unfilled bond papers as against the petitioner. While the pending the suit, P.W.1 was examined and the plaintiff's side evidence was closed. Thereafter, the petitioner herein filed two petitions I.A.Nos.1062 & 1063 of 2017 to re-open the plaintiff's side evidence and to re-call P.W.1 to mark some documents through P.W.1. The trial Court dismissed both the petitions, as against which the petitioner filed the present Civil Revision Petitions.

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3. On perusal of the affidavit filed in support of the petition to re-open and re-call revealed that the respondent herein foisted false complaint

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as against the petitioner and he was arrested and remanded to judicial custody. The documents relevant to the complaint and arrest were misplaced and during the Ayudha Pooja, the petitioner was able to find out those documents. Hence, he filed the present petitions. The trial court dismissed the petitions for the reason that P.W.1 evidence was already closed and she cannot be compelled to come again for cross-examination. Further the documents which are sought to be marked through P.W.1 were not produced.

4. As stated supra, in the affidavit filed in support of the petitions, the petitioner stated about the documents and the reason for re-calling P.W.1 for further cross-examination. When the suit was posted for defence side evidence, the petitioner immediately filed petition to re-open and re-call P.W.1. Therefore, the Court below ought to have allowed the petitions. Hence, the order passed by the Court below is perverse and illegal and liable to be set aside.

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5. Accordingly, the order dated 08.01.2018 passed by the learned District Munsif, Ambattur in I.A.Nos.1062 & 1063 of 2017 in O.S.No.595 of 2013 respectively, is hereby set aside and the petitioner is permitted to cross-examine P.W.1 on the date fixed by the trial Court. It is made clear that if the petitioner failed to cross-examine P.W.1 on that day, the trial Court viz., the learned District Munsif, Ambattur, is directed to proceed with the trial and dispose the suit.

6. With the above directions, both the Civil Revision Petitions are allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

07.07.2021

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order

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To

1. The District Munsif,
   Ambattur.

2. The Section Officer,
   V.R. Section,
   Madras High Court,
   Chennai.

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G.K.ILANTHIRAIYAN, J.

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