



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2021

CORAM

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P(MD) Nos.1129 & 1130 of 2021

and

C.M.P. (MD) No. 6598 of 2021

WEB COPY

Abdul Subahazan

... Petitioner/Petitioner/Plaintiff
in both CRPs.

Vs.

1. Tamim Ansari
2. Rahamath Rani

...Respondents/Respondents/
Defendants in both CRPs.

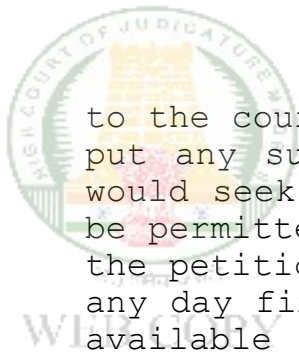
COMMON PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Fair and Decreetal Order made in I.A. Nos.3 & 4 of 2021 in O.S. No. 389 of 2013 by the Principal District Munsif Court, Aruppukkottai, Virudhunagar District, dated 07.04.2021.

For Petitioner : Mr.C.Suresh Kannan
in both CRPs.

COMMON ORDER

The Civil Revision Petitions have been filed to set aside the common fair and decreetal order made in I.A. Nos.3 and 4 of 2021 in O.S.No. 389 of 2013 by the Principal District Munsif Court, Aruppukkottai, Virudhunagar District, dated 07.04.2021.

2. The learned counsel for the petitioner would submit that the petitioner/plaintiff has filed a suit in O.S.No.380 of 2019 for declaration and permanent injunction. The petitioner is a senior citizen aged about 78 years. Though the suit is of the year 2019, the suit was taken up for trial and the evidence of the petitioner/plaintiff was closed on 10.12.2019 and thereafter the evidence on the side of the defendants/respondent was closed on 10.03.2021. The petitioner being a senior citizen aged about 78 years and due to his old age left out letting in some important and valid evidence on his side during his examination in chief, thereby he had filed an application seeking to re-open and re-call to let in additional evidence. Though the respondent has stated no objection the trial judge had dismissed the petition stating the petitioner had not put forth any valid reasons for re-opening and re-calling. He would reiterate though there is some lapses on the part of the petitioner, however, taking into consideration the age of the petitioner, the trial court ought to have considered the petition for re-opening and re-calling. He further submitted that the order 18 Rule 17 of the Civil Procedure Code gives discretion



to the court for recalling any evidence at any stage of the suit to put any such question as the Court deems it fit and thereby he would seek that the revision may be allowed and the petitioner may be permitted to let in additional evidence. The learned counsel for the petitioner undertakes that the petitioner is ready to appear on any day fixed by the trial Court and let in evidence and he will be available for cross examination on the same day or any other date fixed by the Court and he would co-operate for the completion of the trial at the earliest.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. The case is of the year 2013. The petitioner had been examined in chief on 22.01.2019 and the evidence had been closed on 10.12.2019. The trial Court had rightly exercised its discretion and dismissed the petition stating that the petitioner had not put forth any valid reasons. However, taking into consideration the age of the petitioner, this Court feels it appropriate that the petitioner may be given one more opportunity to let in further evidence. In view of the above the order dated 07.04.2021 passed in I.A.Nos.3 and 4 of 2021 is set aside and the revision is allowed on condition that the petitioner pays a sum of Rs. 500/- to the legal services authority before concerned Court and Rs. 500/- to each of the respondents. The petitioner shall be available for letting in evidence on the date fixed by the trial Court and he shall also be available for further cross examination. In the event of the petitioner failing to appear before the trial Court, the petitioner shall not be given any further opportunity. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal District Munsif,
Aruppukkottai,
Virudhunagar District.



2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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