



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(MD)No.976 of 2020

and

CMP(MD)No.6411 of 2020

S.Ramachandran

... Petitioner/Petitioner/2nd Defendant

vs.

Chinnaiah

... Respondent/Respondent/Plaintiff

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order made in I.A.No.176 of 2020 in O.S.No.178 of 2012 dated 18.03.2020 on the file of Additional Sub Court, Pudukkottai.

For Petitioner

: Mr.D.Sadiq Raja

For Respondent

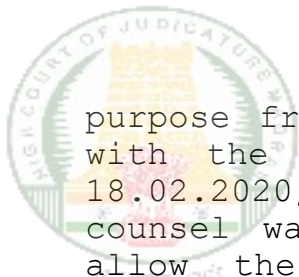
: Mr.G.Sridharan

ORDER

Against the dismissal of the petition to re-open the case for letting in defendants' side witness, this revision petition is filed by the revision petitioner/2nd defendant.

2.The learned counsel for the petitioner would state that the respondent/plaintiff filed a suit for specific performance in O.S.No.178 of 2012 on the file of Additional Sub Court, Pudukkottai, based on the sale agreement entered into between the respondent/plaintiff and the 1st defendant and the suit was posted on 18.02.2020 for examination of the defendants' side witnesses and since the revision petitioner/2nd defendant was not well on the said date, he could not give instructions to his counsel and his counsel also was out of station on that date and therefore, proof affidavit along with documents could not be produced on the said date which is neither wilful nor wanton. Therefore, the petitioner filed the present petition in I.A.No.176/2020 to reopen the case for letting in defendants' side witnesses, but the Court below has erroneously dismissed the same on 18.03.2020. Thus, he would pray for setting aside the above order.

3.The learned counsel for the respondent would state that the trial has commenced in November 2017 and the petitioner wantonly did not examine any witness inspite of 8 adjournments granted for that



purpose from 29.11.2019 to 18.02.2020 and now he has come forward with the present petition to reopen the case stating that on 18.02.2020, he was not well without mentioning the illness and his counsel was in Chennai which are neither true nor sufficient to allow the petition to reopen the case and the Court below considering the same, has rightly dismissed the petition which does not require interference by this Court. The learned counsel would also pray for early disposal of the suit.

4. Heard the learned counsel for the petitioner as well as the respondent.

5. The Court below found that though the petitioner cited his illness as the reason for non examination of the witness, the details regarding as to when he was sick and the ailment which he suffered, have not been stated in the petition. The learned Judge has also found that case is pending for nearly 8 years and the petitioner had not utilised the opportunities to let in any evidence from 20.11.2019 to 18.02.2020 and finding that the reason stated by the petitioner is not bonafide and invented only to protract the case, dismissed the petition to reopen the case.

6. However, considering the facts and circumstances of the case, in my opinion, ends of justice would be met by giving one more opportunity to the petitioner to examine his witness. Accordingly, the order made in I.A.No.176 of 2020 in O.S.No.178 of 2012 dated 18.03.2020 on the file of Additional Sub Court, Pudukkottai, is set aside and the learned Judge shall fix a date for examination of defendants' side witnesses and on the same day, the petitioner shall examine the witnesses and if this opportunity is not utilised by the petitioner, the learned Judge shall proceed with the matter further. Since the suit is of the year 2012, the learned Judge shall dispose of the suit in O.S.No.178/2012 within a period of six months from the date of receipt of a copy of this order.

7. With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

/ /2020
Sub Assistant Registrar

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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



To

The Additional Sub Judge,
Pudukkottai.

WEB COPY

Copy to:

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1cc Mr.D.Sadiq Raja, Advocate Sr.No.7665

+1cc Mr.G.Sridharan, Advocate Sr.No.7320

ORDER MADE IN
CRP(MD)No.976 of 2020
DATED : 25.02.2021

NR(05.03.2021) 3P:5C