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CRP.(PD)No.1180, 1181 and 1182/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

CRP.(PD)Nos.1180, 1181 and 1182 of 2022
and C.M.P.Nos.6286, 6287 and 6288 of 2022

M.Mohammed Aslam

... Petitioner in all C.R.P's

Vs

1.Mrs.Saboor Kamil,
2.Mrs.Noor Sahar,

...Respondents in all C.R.P's

PRAYER in C.R.P.No.1180 of 2022: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed by the learned V Additional City Civil Court Judge at Chennai in I.A.No.04 of 2021 in O.S.No.9040 of 2010 dated 07.01.2022 and allow this Civil Revision Petition with costs.

PRAYER in C.R.P.No.1181 of 2022: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed by the learned V Additional City Civil Court Judge at Chennai in I.A.No.03 of 2021 in O.S.No.9040 of 2010 dated 07.01.2022 and allow this Civil Revision Petition with costs.



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PRAYER in C.R.P.No.1182 of 2022: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed by the learned V Additional City Civil Court Judge at Chennai in I.A.No.02 of 2021 in O.S.No.9040 of 2010 dated 07.01.2022 and allow this Civil Revision Petition with costs.

For Petitioner in
all C.R.P's : Mr.G.Ilamurugu

For Respondents in
all C.R.P's : Mr.Venkatesh Mohanraj

COMMON ORDER

After closure of trial, the plaintiff has woken up to realize that he has not cross- examined a witness to prove a certain hibba, on which, he rests his case. He also wants to examine one of his brothers, by name, Munir Ahamed on his side, since the defendant who is none other than the mother of the plaintiff has deposed that most of the facts, to which she was confronted with during cross-examination, was only known to this Munir Ahamed and he also wanted to take out an application for comparing certain signature in the certified copies of two documents by a forensic expert. For this purpose, he had filed an Application for reopening the trial, for examining the witness,



namely the witness for Hibba, on which, the plaintiff claims certain right in I.A.No.2 of 2021, an Application for forwarding the certified copies of two documents for obtaining an opinion on the genuineness of the signatures therein in I.A.No.4 of 2021 and an Application for issuing Subpoena to Munir Ahamed in I.A.No.3 of 2021. All these three Applications came to be dismissed and the plaintiff has moved this Court, with these three Revisions challenging the same.

2.Heard, both sides.

3.The submissions made by the learned counsel for the revision petitioner are along predictable lines, whereas, the learned counsel for the first respondent submitted that it is a strategy to delay the final disposal of the case. He added that so far as comparing the signatures of the first defendant/first respondent in certain documents are concerned, it is admitted those signatures belong to her and therefore, there is no need for sending those documents for obtaining an expert opinion on its genuineness.



4. After weighing the rival contention, this Court does not consider it necessary to interfere with the order passed by the trial Court in I.A.No.4 of 2021 in O.S.No.9040 of 2010, since the learned counsel for the first respondent has submitted that the first defendant does not dispute the signatures therein.

5. So far as order passed in other two Applications in I.A.Nos.2 and 3 of 2021 in O.S.No.9040 of 2010 are concerned, this Court considers that the plaintiff ought to have known that he has to prove the Hibba, on which he rests his cause of action and that the same was denied by the defendants, and hence, he was under burden to prove the same by cross-examining a witness. This is plane indiscipline while facing trial. But, taking into consideration the larger interest of the cause of justice, this Court deems it appropriate to allow the same, but on payment of such just cost that would be sufficient to alleviate the agony to which the first defendant is put to.

6. Accordingly, this Court allows CRP.Nos.1181 and 1182 of 2022 on the



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revision petitioner paying a cost of Rs.25,000/- (Rupees Twenty Five Thousand only) to the first respondent on or before 06.06.2022.

7. So far as C.R.P.No.1180 of 2022 is concerned, as outlined earlier this Court does not consider it necessary to interfere with the order of the trial Court in I.A.No.4 of 2021 in O.S.No.9040 of 2010 and hence, the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

8. Since, the suit is in the 12th year of its institution, the trial Court shall endeavour to dispose of the suit in O.S.No.9040 of 2010 within a period of two (2) months from the date of communication of this order and at any rate, not later than July 2022. The trial Court is also required to send fortnightly reports to the High Court about the progress of the case.

9. This Court is informed that the case is posted on 06.06.2022 before the trial Court. The trial Court is directed not to adjourn the matter on any scope except in case of any bereavement and proceed with the case day by day.



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10. While disposing the suit, the trial Court is required not to be influenced by any observation that might have been made in any of the orders impugned before this Court in these Revisions.

11. The learned counsel for the respondent submitted that he will ensure the presence of Munir Ahamed on 06.06.2022 before the trial Court, so there may not be any need for taking summons on him.

12. Post the matter for reporting compliance on 06.06.2022.

26.04.2022

Index : Yes/No
Speaking Order/Non Speaking Order
Tsg/dk



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To
The V Additional City Civil Court,
Chennai.



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N.SESHASAYEE, J.,

Tsg/dk

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