



C.R.P.No.3320 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3320 of 2022
and
C.M.P.No.17600 of 2022

1.Naresh Kumar
2.Geetha

... Petitioners

VS

Anandharaj

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decreetal order passed by the III Additional District Sessions Court in I.A.No.275 of 2021 in O.S.No.84 of 2019 passed by the Additional District Sessions Court dated 23.03.2021 and allowing the application consequently to conduct the further PW.1 proceedings for reopen the evidence in the main suit in O.S.No.84 of 2019 allowing the stage of all the evidence were closed the examination of evidene is to dragging the suit. In these cases to set aside the re-examination of PW.1 on merits.



C.R.P.No.3320 of 2022

For Petitioners : Mr.M.Muralidharan

For Respondent : Mr.A.Vijayakumar
for Mr.Malai Kani

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed by the respondent to reopen the case and recall PW.1 for further cross examination in I.A.No.275 of 2021.

2. Mr.A.Vijayakumar, learned counsel representing Mr.Malai Kani, takes notice for the respondent.

3. The petitioners herein filed a suit for specific performance of contract against the respondent. The trial in the suit is already over and the matter is posted for arguments. Thereafter, the respondent herein filed I.A.No.275 of 2021 seeking to reopen and recall of PW.1 for further cross examination. In the affidavit filed in support of the said application, the respondent had stated that the attestor to the agreement was examined as PW.1. It was further stated that through PW.1 there were negotiations between the parties and the respondent paid some amount to the revision petitioners towards settlement of their money



claim against the respondent. It was also stated that the amount transferred to the account of the revision petitioners from the account of the respondent. The respondent wants to cross examine the said witness with regard to this aspect. The said application was seriously opposed by the revision petitioners on the ground that already the trial in the matter was over and the matter is posted for advancing arguments.

4. The Court below considering the rival submissions found that an opportunity should be given to the respondent to cross examine PW.1 with regard to the money transaction alleged by them. Accordingly, the petition was allowed by the Court below by imposing a condition that the respondent should pay cost of Rs.750/- to the revision petitioners. Aggrieved by the said order, the revision petitioners have come up by way of this civil revision petition.

5. Though I do not find any justifiable reason to interfere with the findings of the Court below and an opportunity should be given to the respondent to cross examine PW.1 with regard to the facts pleaded by them, considering the delay in filing the application and the stage of the suit in which



C.R.P.No.3320 of 2022

the application was filed, I am inclined to enhance the cost fixed by the Court below.

6. Accordingly, the order passed by the Court below is modified by directing the respondent to pay a cost of Rs.5,000/- to the revision petitioners on or before 18.11.2022. On such payment, I.A.No.275 of 2021 filed by the respondent would stand allowed. Taking into consideration the suit is of the year 2019, the III Additional District and Sessions Court, Virudhachalam is directed to dispose of the suit in O.S.No.84 of 2019, within a period of four months from the date of receipt of a copy of this order.

7. With this modification, the Civil Revision Petition is disposed of. No costs. Consequently, the connected civil miscellaneous petition is closed.

18.10.2022

Index : Yes / No
Speaking Order : Yes / No
dm

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4/6



C.R.P.No.3320 of 2022

The III Additional District and Sessions Court,
Virudhachalam.



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C.R.P.No.3320 of 2022

S.SOUNTHAR, J.

dm

C.R.P.No.3320 of 2022

18.10.2022