



C.R.P.Nos.3840 & 3841 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.3840 & 3841 of 2023

and

C.M.P.No.23752 of 2023

Palani ... Petitioner in both the CRPs

-Vs-

Premkumar ... Respondent in both the CRPs

Prayer in CRP No.3840 of 2023: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and final order passed in I.A.No.02/2023 in O.S.No.760/2015 on the file of the Additional District Munsif Court, Alandur dated 16.06.2023.

Prayer in CRP No.3841 of 2023: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and final order passed in I.A.No.01/2023 in O.S.No.760/2015 on the file of the Additional District Munsif Court, Alandur dated 16.06.2023.

For Petitioner : Mr.Ma.P.Thangavel
for Mr.M.Lokesh



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ORDER

Challenging the impugned fair and final orders passed in I.A.Nos. 02 and 01 of 2023 in O.S.No. 760 of 2015 by the Addl. District Munsif, Alandur, Chennai, the petitioner/plaintiff preferred these Civil Revision Petitions.

2. Since the relief claimed challenging the orders passed by the trial judge, notice to the respondent is dispensed with.

3. The learned counsel for Revision Petitioner would submit that before the trial court, he filed applications to reopen and recall evidence of D.W.1 for cross-examination in both I.A.Nos. 1 and 2 of 2023. Both applications were dismissed by the trial judge stating that earlier, sufficient opportunity was given to the plaintiff to cross-examine D.W.1, but it was not utilised by him and after closing the evidence and when the suit was posted for arguments, the plaintiff once again filed the said applications to reopen and recall evidence of D.W.1 without any reasons as such is vexatious one. Aggrieved over the same, the plaintiff preferred these Civil Revision Petitions.



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4. Records perused. On perusal of records, it reveals that the plaintiff filed a suit in the year of 2015 for the relief of permanent injunction and other consequential relief against the defendant. The respondent/defendant also contested the case. When the case is ripe for trial during Covid-19 period, it was posted for cross-examination of D.W.1 on 16.07.2021 and after revocation of covid pandemic, the case was adjourned to the month of November 2022, but due to lack of communication, he was not able to appear before the trial court. So, the evidence was closed. The non-cross-examination of plaintiff is neither wanton nor negligent and now he is ready to proceed with the matter. Accordingly, he prayed to grant one more opportunity. It is pertinent to note that during covid period, the case was posted and subsequently, it was adjourned for several hearings, but the trial judge without giving opportunity to him dismissed the applications. As the plaintiff, he filed applications before the trial court to reopen and recall evidence of D.W.1. On considering the same, if opportunity is not given to the plaintiff, his valuable right to defend the case will be defeated. Therefore, this Court is inclined to set aside the findings rendered by the trial judge in I.A.Nos.1



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and 2 of 2023 in O.S.No.760 of 2015. However, the Revision Petitioner is directed to cooperate with the proceedings for cross-examination of D.W.1 and the trial judge is directed to proceed with the trial and dispose the suit on merit within a period of three months from the date of receipt of copy of this order. Accordingly, these Civil Revision Petitions are allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

16.10.2023

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Index : Yes/No

Speaking Order : Yes/No

To

The Additional District Munsif, Alandur.



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T.V.THAMILSELVI, J.

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