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C.R.P.Nos.4736 & 4737 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

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

C.R.P.Nos.4736 & 4737 of 2023

and

C.M.P.Nos.28106 & 28107 of 2023

R.Dhanalakshmi

... Petitioner in
both C.R.P.s

-Vs-

L.Subramanian

... Respondent in
both C.R.P.s

Prayer in C.R.P.No. 4736 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and final order made in I.A.No.3 of 2023 in O.S.No.165 of 2016 dated 02.09.2023 on the file of Subordinate Judge, Udumalpet, Chennai.

Prayer in C.R.P.No. 4737 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and final order made in I.A.No.2 of 2023 in O.S.No.165 of 2016 dated 02.09.2023 on the file of Subordinate Judge, Udumalpet, Chennai.



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For Petitioner in
both C.R.P.s

: Ms. R.Meenakshi

COMMON ORDER

Challenging the impugned orders passed in I.A.Nos.2 and 3 of 2023 in O.S.No. 165 of 2016 passed by the Subordinate Judge, Udumalpet respectively, the Revision Petitioner/plaintiff preferred these Civil Revision Petitions.

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

3. Before the trial court, the revision petitioner/plaintiff filed applications to reopen and recall of P.W.2 in order to mark one document to prove her claim against the defendant. That applications were dismissed by the trial judge holding that no specific reason was assigned by her and only to drag on the proceedings, she filed the said applications. Aggrieved over the same, she preferred these Civil Revision Petitions.



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4. The learned counsel for revision petitioner would submit that during the trial, in order to prove that the defendant has signed the promissory note, since because the defendant denied the signature in the promissory note. To prove the same, now she produced a partition deed, in which the defendant also one of the signatory and to prove the said document through P.W.2, she filed the said applications to recall and reopen. But, the trial judge without considering her submissions, erroneously dismissed the applications. Hence, she prayed to set aside the findings of trial judge.

5. Admittedly, the suit was filed in the year of 2016 on the basis of promissory note seeking for the relief against the defendant. The defendant totally denied the plaintiff's claim and also denied the signature in the promissory note. Now, the plaintiff taken steps to prove the signature found in the promissory note is belong to the defendant. So, if opportunity is not given to her, her valuable right to defend the case will be defeated. But, the trial judge failed to appreciate the same, thereby erroneously



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dismissed the applications and the same are liable to be set aside.

Accordingly, these Civil Revision Petitions are allowed and the findings of trial judge in I.A.Nos.2 and 3 of 2023 in O.S.No.165 of 2016 are set aside.

Liberty is granted to the respondent/defendant to cross-examine P.W.2 to that effect. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

21.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Subordinate Court, Udumalpet.



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T.V.THAMILSELVI, J.

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