



C.R.P.(MD).No.265 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	04.09.2023
Pronounced on	21.12.2023

CORAM

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.265 of 2023
and
C.M.P.(MD) No.1224 of 2023

1.R.Geetha

2.R.Radhika

3.R.Sri Rekha Devi

...Petitioners

Versus

1.V.Rathinam

2.R.Prasad

3.S.Rajeswari

... Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of Constitution of India to call for the records relating to the fair and decreetal order dated 25.11.2022 and made in I.A.No.09 of 2022 in O.S.No.165 of 2021 on the file of learned Principal District Judge, Karur, set aside the same and allow the civil revision petition.

For Petitioners : Mr.S.Srinivasa Raghavan

For Respondents :

For R1 : Mr.E.K.Kumaresan

For R2 & R3 : No Appearance



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ORDER

This Civil Revision Petition is preferred against the order in I.A.No.9 of 2022 in O.S.No.165 of 2021 dated 25.11.2022 on the file of the Principal District Judge, Karur.

2. According to the revisions petitioners, the said application was filed by the 1st respondent/plaintiff to reopen the evidence on the side of the 1st respondent/plaintiff so as to enable him to produce further witnesses on his side, i.e.,attesting witnesses to the suit promissory notes. The trial Court without assigning any valid reason allowed the said application, which is contrary to law. The trial Court failed to take note of the fact that the suit was in the stage of part heard and the application to reopen the evidence on the side of the plaintiffs is an afterthought, and filed belatedly and therefore, ought to have been rejected.

3. It is submitted that the plaintiff, who is the 1st respondent herein, examined himself as P.W.1 and thereafter, the matter was posted for further evidence and since no further witness was examined on the side of the



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plaintiffs in spite of several opportunities given to him, the trial Court was pleased to close the evidence of the 1st respondent/plaintiff and posted the matter for defendants side evidence. At that stage, the 1st respondent/plaintiff took out the present application to reopen the evidence on his side. Even in the supporting affidavit, no valid reason was stated by the 1st respondent. It is submitted that in a suit based on promissory note, the party and the attesting witness should be examined on the same day and the trial Court failed to note that the present application for reopening the evidence on the side of the plaintiff was filed after the examination of the 1st respondent herein as P.W.1 after a long gap. Hence, the said order passed by the trial Court is liable to be set aside.

4. The learned counsel for the revision petitioners would submit that the said promissory notes are forged documents and not signed by late Thiru.S. Ramanathan. He would submit that the petitioners have not stated any valid reason for non examination of witness except for belated claim made in the petition. He would further submit that the petition filed by the 1st respondent lacks credence and therefore, the trial Court ought to



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have dismissed the above application.

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5. On the other hand, the learned counsel for the 1st respondents would submit that after examination of P.W.1, the case was posted for further evidence on the plaintiff's side. Since the attesting witness and the scribe to the promissory notes were out of station, the 1st respondent/plaintiff was unable to examine them as further witness on his side and therefore the plaintiff's side evidence was closed. He would submit that since the witnesses are now available, the 1st respondent/plaintiff filed the above petition to reopen his side evidence. The trial Court in the interest of justice, allowed the said application which calls for no interference.

6. Heard the learned counsel on both sides and perused the materials on record.

7. Though it is required that the parties and the witnesses to the documents should be examined on the same day in order to prevent



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prompting among the witness. However, no straight jacket formula can be followed in this regard. Since it is submitted by the 1st respondent/plaintiff that the attesting witness and the scribe to the promissory notes were out of station, the 1st respondent/plaintiff was unable to examine them on the date fixed for further evidence on the side of the plaintiff. Since witnesses are now available, the plaintiff has come forward with the said application to examine them. In a suit for recovery of money based on promissory notes, in order to prove the execution of the promissory note, the plaintiff is under obligation to examine the attesting witness to prove the execution of the promissory notes. If the same is curtailed, the plaintiff will be unable to establish the execution of promissory notes. Therefore, the trial Court has considered the above fact in the interest of justice and to adjudicate the dispute in a proper prospective allowed the application to reopen the plaintiff's side evidence. No perversity is found in the order passed by the trial Court.

8. Therefore, the above Civil Revision Petition is devoid of merits and accordingly it is dismissed. No Costs. Consequently, connected Civil Miscellaneous Petition is also closed.



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Index:Yes/No

Speaking Order : Yes/No

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The Principal District Court, Karur



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K.GOVINDARAJAN THILAKAVADI,J.

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Pre-Delivery Judgment made in

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and

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