



C.R.P.(MD)Nos.28 & 29 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 10.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)Nos.28 & 29 of 2018

and

C.M.P.(MD)No.107 of 2018

Ganesan ... Petitioner/ Petitioner/ Defendant
in both C.R.Ps.

Vs.

Arumugam ... Respondent/Respondent/Plaintiff
in both C.R.Ps.

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to call for the records and to set aside the fair and decreetal order, dated 10.10.2017, in I.A.Nos.41 and 42 of 2017, in O.S.No.310 of 2012, on the file of the Sub Court, Vedasandur and to allow this Civil Revision Petition.

(In both C.R.Ps.)

For Petitioner : Ms.S.Prabha, Legal aid panel advocate

For Respondent : Mr.K.Ashok Kumar



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COMMON ORDER

The instant Civil Revision Petitions have been filed, against the fair and decretal order, dated 10.10.2017, in I.A.Nos.41 and 42 of 2017, in O.S.No.310 of 2012, on the file of the Sub Court, Vendasandur.

2. The revision petitioner, in both petitions, is the defendant before the trial Court. According to the revision petitioner, he filed an application to recall P.W.1 and P.W.2. It appears from the records that P.W.1's cross-examination was over. Since P.W.2 was not cross-examined, his evidence was closed. The defendant filed the recall application, on the ground that some of the important questions were inadvertently not confronted against P.W.1, and further, P.W.2 was not at all cross-examined.

3. After hearing the learned counsel on either side, the trial Court has dismissed the applications on the ground that the petitioner has not availed opportunity deliberately.



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7. However, this Court deems it appropriate to compensate the respondent / plaintiff, for the delay caused by the defendant. Thus, this Court is inclined to allow the Civil Revision Petitions, by permitting the revision petitioner to recall P.W.1 for the further cross-examination, on condition that the revision petitioner shall pay a sum of Rs.2,000/- (Rupees Two Thousand only) to the respondent herein / plaintiff, within a period of four weeks from the date of receipt of the copy of this order, failing which, the revision petitions shall stand dismissed without any further reference to the order of this Court. The prayer in respect of recall of P.W.2 is dismissed as he is dead.

8. Since the matter is of the year 2012 and that too, the suit is for specific performance, the trial Court is directed to dispose of the matter as expeditiously as possible, preferably, within a period of six months from the date of receipt of copy of this order. Consequently, the connected Miscellaneous Petition is closed.

10.07.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Sub Court,
Vedasandur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN.,J.

Ls

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