



WEB COPY



CRP.Nos.1175 and 1176 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.06.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

CRP.Nos.1175 and 1176 of 2022
and CMP.No.6250 of 2022

Arulgnanam ...Petitioner in both CRP/plaintiff/respondent

Vs.

Ibram Khan ...Respondent in both CRP/defendant/petitioner

COMMON PRAYER: Civil Revision Petitions are filed under section 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.Nos.644 and 643 of 2021 in O.S.No.193 of 2018 dated 08.03.2021 on the file of the Principal District Judge, Cuddalore.

For Petitioner in both CRP : Mr.B.Sundarapandiyan
For Respondent in both CRP: No appearance

COMMON ORDER

The above Civil Revision Petitions have been filed as against the fair and decreetal order dated 08.03.2022 passed in I.A.Nos.643 and 644 of 2021 in O.S.No.193 of 2018 on the file of Principal District Judge, Cuddalore, wherein the respondent herein has filed petitions to re-open the case of the plaintiff and to recall the plaintiff side witnesses for further cross examination. The trial Court allowed both the applications. Aggrieved by the said fair and decreetal



order passed by the trial Court, the present CRPs are filed by the respondent/plaintiff.

2. No representation for the respondent and already notice was served and name of the respondent also printed in the cause list. But none appeared.

3. According to the petitioner, he is the plaintiff in the main suit and he filed the suit for the relief of recovery of money as against the respondent and already plaintiff side witnesses were examined and documents were marked. Thereafter, the respondent herein filed the petition to reopen the plaintiff side witness and to recall P.W.1 to 4 for further cross examination. Already the same respondent filed petition in I.A.No.460 of 2020 to recall the plaintiff side witness and the same was allowed. As against the said order, the petitioner herein filed CRP.No.603 of 2021 and the same was allowed by setting aside the order of the trial Court in I.A.No.460 of 2020. More over the respondent herein has not stated any reasons to reopen the case and recall the plaintiff side witness. Already elaborate cross examination was made by the respondent at the time of cross examination of plaintiff's side witness. Therefore, the trial Court without considering the said aspect allowed the applications filed by the respondent for reopening the plaintiff's side case and to recall the plaintiff's side witnesses P.W.1 to 4. Therefore, the order passed by the trial Court are



liable to be set aside.

WEB COPY

4. The learned counsel for the petitioner/plaintiff would contend that the respondent herein being the defendant in the main suit has filed petition before the trial Court to reopen the case of the plaintiff's side and to recall the witnesses P.W.1 to 4. But already for the same prayer in I.A.No.460 of 2020 was filed to recall the plaintiff's side witness and the same was challenged through revision in CRP.No.603 of 2021 and the same was allowed. Once again the same petitioner suppressing the above said dismissal of previous application filed the present petition without raising any reasons. Therefore, the order passed by the trial Court is liable to be set aside.

5. There is no representation for the respondent.

6. This Court heard the petitioner's side and perused the records.

7. The petitioner herein has challenged the order passed in I.A.No.643 and 644 of 2021 before the trial Court, The respondent herein has filed petition in I.A.No.643 of 2021 under section 151 of CPC to reopen the case and I.A.No.644 of 2021 filed under Order 18 Rule 17 of CPC to recall PW1 to 4 and the same were allowed.

8. This Court perused the affidavit filed by the petitioner in both the petitions in I.A.Nos.643 and 644 of 2021. On perusal of affidavit, there is no



reasons stated by the petitioner to recall the witnesses and he has simply stated that there was no sufficient time for cross examination of PW1 to 4 and he did not know about the witnesses at the time of cross examination. Except stating the said reason, no other reason has been stated in the above said IAs.

9. Further it is seen from the records that already the same petitioner filed petition in I.A.No.460 of 2020 to recall the plaintiff's side witness and the same was allowed by the trial Court. As against the order passed by the trial Court, the revision petitioner herein had challenged the orders passed in I.A.Nos.460 of 2020 before this court and the same was allowed. But the respondent herein at the time of filing these petitions before the trial Court suppressed the above said fact of disposal of the earlier application. Further no any valid reasons stated by the petitioner to recall the witnesses and without stating any valid reasons, filed this application. More over, already PW1 to 4 were cross examined by the respondent herein elaborately, thereby ample chances were given, but the trial Court without considering the above said aspects, allowed the applications on the ground that the petitioner at the time of cross examination due to insufficient time and since he did not know about the witnesses. The trial court granted one more chance with the said observation and thereby the said order made by the trial Court is erroneous and the same are liable to be set aside. Since already ample chances were



CRP.Nos.1175 and 1176 of 2022

given to the respondent for cross examination of witnesses of PW1 to 4 and the defendant also elaborately cross examined the witnesses but the trial Court without considering the said aspects allowed the said IA. Therefore, as discussed supra the orders passed by the trial Court by allowing the petition to recall PW1 to 4 and re-open the case are liable to be set aside.

10. In the result, the Civil Revision Petitions are allowed and the orders passed by the trial Court in I.A.Nos.643 and 644 of 2021 in O.S.No.193 of 2018 are set aside. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index : Yes/No
Speaking order/non-speaking order
mpa
To
The Principal District Judge, Cuddalore.

P.DHANABAL, J.,

mpa



WEB COPY



CRP.Nos.1175 and 1176 of 2022

CRP.Nos.1175 and 1176 of 2022
and CMP.No.6250 of 2022

03.06.2024