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C.R.P.No.3727, 3728 & 3729 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3727, 3728 & 3729 of 2016 and
CMP No.18921, 18922 & 18923 of 2016

1.M/s.Tamil Nadu State Marketing Corporation Ltd.,
Rep by its Power Agent/Subrogee
M/s.United India Insurance Company Ltd.,
Divisional Office-II, No.104A,
Peramanoor Main Road, Salem-636 007.

2.M/s.United India Insurance Company Ltd,
Divisional Office-II, No.104A,
Peramanoor Main Road, Salem-636 007.

... Petitioners in CRP's

Vs.

M/s.S.C.Brothers Lorry Transport Service
No.184, Narasimhan Road, Shevapet,
Salem-636 002.

...Respondent in CRP's

PRAYER in CRP.No.3727 of 2016 Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order of the Trial Court passed in I.A.No.44 of 2016 in O.S.No.3265 of 2013 and thus allow the



interim application filed by the petitioner/plaintiff to re-open the plaintiff's evidence which was struck down on 04.03.2015.

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PRAYER in CRP.No.3728 of 2016 Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order of the Trial Court passed in I.A.No.46 of 2016 in O.S.No.3265 of 2013 and thus allow the interim application filed by the petitioner/plaintiff to grant leave to file additional documents which was dismissed on 25.07.2016.

PRAYER in CRP.No.3729 of 2016 Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order of the Trial Court passed in I.A.No.45 of 2016 in O.S.No.3265 of 2013 and thus allow the interim application filed by the petitioner/plaintiff to re-call the plaintiff witness No.1 which was dismissed on 25.07.2016.

For Petitioners in all CRP's : Mr.G.Guruswaminathan
for M/s.Nageswaran & Narichania

For respondent in all CRP's : Mr.T.D.Vasu
for M/s.J.D.Srikanth Varma

COMMON ORDER

These Civil Revision Petitions are filed challenging the common order passed by the Trial Court dismissing the applications filed by the petitioners/plaintiffs seeking to re-open the case, recall P.W.1 and produce additional documents.



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2. The petitioners herein filed a suit for recovery of money towards damages for loss caused to the consignment entrusted with the defendant for delivery. Earlier, P.W.1 was examined in part and thereafter, he failed to appear for further cross-examination and hence, the evidence of plaintiffs' side was closed and the matter was adjourned for recording evidence of defendant's side. It is stated that after recording the evidence on the side of the defendant, the arguments were heard and the matter was reserved for judgment. At this juncture, the present applications have been filed by the petitioners/plaintiffs.

3. The Trial Court dismissed the applications on the ground that P.W.1 failed to appear for further cross-examination for nearly 16 occasions and hence, dismissed the applications. Aggrieved by the same, the petitioners are before this Court.

4. In the affidavit filed in support of the applications, it was stated by the petitioners that respondent issued a notice to produce certain documents and the said documents could not be produced by the petitioners immediately. The



petitioners traced out those documents now and hence, application has been filed to produce documents which were required by the respondent/defendant.

It is further averred in the affidavit that the Officer who was examined as P.W.1 was on long leave. Therefore, the petitioners could not produce him for further cross-examination. The documents now sought to be produced by the petitioners are not new documents and those documents were required by the respondent themselves by issuing notice to produce documents. Therefore, by allowing the application to produce the documents which were required by the respondent, no prejudice would be caused to the respondent. Further, unless the case is re-opened and P.W.1 is recalled, the petitioners will not be in a position to mark the documents which were required by the respondent. In such circumstances, this Court feels in the interest of justice, an opportunity shall be given to the petitioners to produce documents in respect of which notice was issued by the respondent.

5. Therefore, the impugned common order is set aside and all the Civil Revision Petitions are allowed on condition that the petitioners shall deposit a sum of Rs.15,000/-(Rupees Fifteen Thousand Only) to the credit of



C.R.P.No.3727, 3728 & 3729 of 2013

O.S.No.3265 of 2013 on the file of XV Additional City Civil Court, Chennai

within a period of two weeks from the date of receipt of a copy of this order.

Failing which, the Civil Revision Petitions shall automatically stand dismissed

without further reference to the Court. No costs. Consequently, the connected

miscellaneous petitions are closed.

19.03.2024

Index : Yes / No

Internet : Yes / No

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To

The learned XV Additional Judge, City Civil Court, Chennai



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S.SOUNTHAR, J.

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