



C.R.P.Nos.2993 & 2995 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition Nos.2993 & 2995 of 2023

and

Civil Miscellaneous Petition Nos.18488 & 18497 of 2023

V. Balaji

... Petitioner in both CRPs

Vs

Chennai Metropolitan Water Supply
and Sewerage Board

rep. By its Managing Director

No.1, Pumping Station Road,

Chintadripet, Chennai 600 010.

... Respondent in both CRPs

Prayer in both CRPs: Both the Civil Revision Petitions have been filed under Article 227 of the Constitution of India to set-aside the order dated 19.07.2023 made in I.A.Nos.10 & 11 of 2023 in O.S.No.4141 of 2020 on the file of the XXIII Assistant City Civil Court, Chennai by allowing the revisions.

For Petitioner : Mr K.J.Parthasarathy
in both CRPs



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For respondent : Mr. Krishna Ravindran
in both CRPs

COMMON ORDER

Both the Civil Revision Petitions have been filed to set aside the fair and decretal order dated 19.07.2023 made in I.A.Nos.10 & 11 of 2023 in OS No.4141 of 2020 on the file of the XXIII Assistant City Civil Court, Chennai.

2. This revision petitioner is the plaintiff and the respondent is the defendant in O.S.No.4141 of 2020 on the file of the XXIII Assistant City Civil Court, Chennai. The abovesaid suit was filed by the petitioner/plaintiff for recovery of a sum of Rs.84,339/- together with interest thereon at 18% per annum on Rs.71,474/-from the date of plaint till the date of actual realization against the respondent/defendant. After examination of witnesses, the petitioner/plaintiff has filed two applications in I.A.Nos.10 & 11 of 2023 to reopen the defendant side evidence and recall DW1 for further cross examination, which were dismissed by the Trial Court by passing the impugned order dated 19.07.2023. Aggrieved over the same, both the Civil



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Revision Petitions have been filed.

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3. The learned counsel appearing for the petitioner submits that when the case was adjourned to 24.04.2023, the petitioner had filed adjournment petition in I.A.No.9 of 2023, however, the Trial Court rejected the said petition without any reason and closed the DW1 evidence on that date itself. If opportunity is not given to the petitioner to cross examine DW1, great prejudice and loss will be caused to the petitioner and seeks to allow the revisions .

4. The learned counsel appearing for the respondent objected to allow the revision petition and contended that several chances have been given to the petitioner, but, he failed to cross examine the witness. Therefore, the Trial Court dismissed the applications filed by the petitioner for cross examining DW1 and there is no ground for interference and hence prays to dismiss the Civil Revision Petition.

5. I have considered the matter in the light of the submissions made by



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the learned counsel on both sides and perused the material available on record.

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6. This revision petitioner/plaintiff had filed a suit in O.S.No.4141 of 2020 on the file of the XXIII Assistant City Civil Court, Chennai against the respondent/defendant for recovery of money. After examination of witnesses, the petitioner/plaintiff has filed two applications in I.A.Nos.10 & 11 of 2023 to reopen the defendant side evidence and recall DW1 for further cross examination, which were dismissed by the Trial Court by passing the impugned order dated 19.07.2023. Aggrieved over the same, both the Civil Revision Petitions have been filed.

7. On perusal of records, it is noticed that on 24.04.2023, when the plaintiff's counsel, DW1 and defendant's counsel were present, the plaintiff's counsel had filed petition for adjournment and the same was dismissed on 24.04.2023 itself. Further more, since the petitioner/plaintiff did not come forward to cross examine DW1 on the date fixed by the Trial Court, the Trial Court has suo moto closed DW1 evidence without cross examination in the interest of justice, which is unsustainable and a chance has to be given to cross



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examine the witness by the other side. Therefore, in order to give an opportunity to the petitioner/plaintiff to cross examine defendant's side evidence(DW1), this Court is inclined to allow both the petitions.

8. Accordingly, both the Civil Revision Petitions are allowed and the impugned orders dated 19.07.2023 passed in I.A.Nos.10 & 11 of 2023 in O.S.No.4141 of 2020 on the file of the XXIII Assistant City Civil Court, Chennai, are hereby set aside and the petitioner/plaintiff has to bear the cost of DW1 for appearance before the Trial Court on that date and on his appearance, without getting any adjournment, the plaintiff has to cross examine DW1 on that day itself. The Trial Court is directed to dispose the suit as early as possible. No costs. Consequently, connected miscellaneous petitions are closed.

06.03.2024

Index: yes/no
Internet:yes/no
mrp

To

The Assistant Judge,

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XXIII Assistant City Civil Court,
Chennai.

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V. SIVAGNANAM, J.

mrp

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