



CRP(PD)(MD)Nos.1190 and 1191 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRP(PD)(MD)Nos.1190 and 1191 of 2023

and

CMP.No.5754 of 2023

T.Jeyakumar

... Petitioner/Respondent/Plaintiff
in both petitions

Vs.

1.K.Anbalagan

2.N.Sumathi

... Respondents/Petitioners/Defendants
in both petitions

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order and decree dated 03.03.2023 made in I.A.Nos.9 and 10 of 2023 in O.S.No.220 of 2018 on the file of the I Additional District Judge (PCR), Trichy.

In both petitions:

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.A.Siva Subramanian

COMMON ORDER

These Civil Revision Petitions are filed aggrieved by the order dated 03.03.2023 in I.A.Nos.9 and 10 of 2023 in O.S.No.220 of 2018 by the learned I Additional District Judge (PCR), Trichy. By the said order, the trial



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Court allowed the Interlocutory Applications. The Interlocutory Applications were filed by the respondents with a prayer to recall P.W.1 and P.W.2 for further cross examination.

2.On perusal of the records, it can be seen that the suit is for recovery of money. The plaintiff had examined himself as P.W.1 and the witness to the promissory note was examined as P.W.2. Those two witnesses were already cross examined by the plaintiff also. When the matter was at the argument stage, the present applications are filed. The trial Court, after considering the applications as well as the opposition by the petitioner herein, allowed the petitions on payment of cost. Aggrieved by the same, the present Civil Revision Petitions are filed.

3.*Mr.G.Gomathi Sankar*, learned counsel appearing on behalf of the petitioner would submit that firstly it can be seen that in the applications filed by the respondents, absolutely vague reasons are mentioned and without any specific reason pleaded, as the witnesses were already cross examined, they cannot be now recalled for further cross examination. At the time of arguments, the defendants cannot indulge in the said exercise so as to fill up the lacuna in their case. He would further submit that the trial Court has



allowed the applications without proper reasoning and by way of a one line non-speaking order. Therefore, this Court should interfere by way of these revisions. He would further submit that the entire exercise is only to protract the proceedings. He would also submit that when the defendants issued a reply notice, they took a different stand that no money was borrowed and no promissory note was executed. They took a U-turn in the written statement to contend that they have executed the promissory note for a different borrowal from a different person, the same is now being misused. As a matter of fact, when the defendants entered into the witness box, they admitted their signatures as well as their left thumb impression in the promissory note during cross examination. Therefore, the present attempt is nothing but an attempt to protract the proceedings.

4.Per contra, *Mr.A.Siva Subramanian*, learned counsel appearing on behalf of the respondents would submit that even in the reply notice, they have raised the ground that the plaintiff is a kind of person who is regularly involved in lending money for interest and thereafter, filing suits. A case has been filed by the third party as against the plaintiff for harassment, etc. The defendants have specifically pleaded about how the promissory note came to be with the plaintiff. There is no contradictory stand which is taken in the



reply notice. He would further submit that a reading of the cross examination by P.W.1 and P.W.2, it will be clear that the same was restricted in respect of the facts which were known to the plaintiff at that stage. However, subsequently, the defendants have gathered the particulars of the suits etc., and also regarding the place of work of the P.W.2 etc., and with regard to the same, earlier the counsel had omitted to question the witnesses during cross examination. By grant of one more opportunity, no prejudice will be caused to the respondent/plaintiff.

5.I have considered the rival submissions made on either side and perused the material records of the case.

6.The plaintiff has filed the present petitions for recall P.W.1 and P.W.2. They have already been cross examined. The cross examination has been done by the defendants. The trial Court has exercised the discretion in favour of the defendants so as to grant one opportunity. Considering the over all facts and circumstances of the case with regard to the specific stand taken by the defendants in the written statement and it cannot be state that the order of the trial Court is perverse so as to be interfered by this Court. When discretion for allowing further cross examination has been exercised by the



trial Court, this Court would be loathe in interfering with the same so long as such a view is a plausible view. As far as the apprehension expressed by the learned counsel on behalf of the petitioner is concerned, the same can be redressed by giving directions that P.W.1 and P.W.2 shall be cross examined on the same day as and when they appear before the trial Court and there will be no further applications or requests on behalf of the defendants and after the further cross examination, both sides will argue the matter so that the suit can be finalized.

7.In view thereof, these Civil Revision Petitions are allowed on the following terms:

(i) The orders of the learned I Additional District Judge (PCR), Trichy, made in I.A.Nos.9 and 10 of 2023 in O.S.No.220 of 2018, dated 03.03.2023 are upheld;

(ii) In the hearing succeeding after the receipt of the copy of the order, both P.W.1 and P.W.2 shall be present before the trial Court and the defendants shall cross examine them on the same day;

(iv) It is undertaken on behalf of the defendants that there will be no further applications or no further witnesses on their side and thereafter, the parties shall argue the matter;



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(v) The trial Court shall dispose of the suit as expeditiously as possible, in any event, within a period of two months from the date of receipt of a copy of this order;

(vi) There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.07.2024

Neutral Citation :Yes/No
sji

To

The Additional District Judge (PCR), Trichy.



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D.BHARATHA CHAKRAVARTHY, J.

sjj

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