



C.R.P.(MD).Nos.2661 and 2662 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD).Nos.2661 and 2662 of 2016
and
C.M.P.(MD).No.12513 of 2016

C.R.P.(MD).No.2661 of 2016

1.Naseer Khan

2.Najeef Khan

3.Syed Ahamed

4.Mohammed Ali

.. Petitioners/Petitioners/Defendants

Vs.

1.Aseena Beevi (Died)

2.Shazakhan

.. Respondents/Respondents/Plaintiffs

(Memo dated 22.12.2020, filed on 22.12.2020 in USR No.18649, is recorded as R1 died and the second respondent, who is already on record, is recorded as LR of the deceased R1 vide Court order dated 26.06.2023 made in C.R.P.(MD).Nos.2661 and 2662 of 2016)



C.R.P.(MD).Nos.2661 and 2662 of 2016

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.11.2016 made in I.A.No.686 of 2016 in O.S.No.73 of 2015 on the file of the learned District Munsif Court, Mudukulathur and allow the present Civil Revision Petition.

For Petitioners : Mr.S.Vellaichamy

For Respondents : No appearance

C.R.P.(MD).No.2662 of 2016

1.Naseer Khan

2.Najeef Khan

3.Syed Ahamed

4.Mohammed Ali .. Petitioners/Petitioners/Defendants

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C.R.P.(MD).Nos.2661 and 2662 of 2016

30.11.2016 made in I.A.No.687 of 2016 in O.S.No.73 of 2015 on the file of the learned District Munsif Court, Mudukulathur and allow the present Civil Revision Petition.

For Petitioners : Mr.S.Vellaichamy

For Respondents : No appearance

COMMON ORDER

Both the Civil Revision Petitions have arisen out of the dismissal order passed in recall and reopen applications.

2. The learned counsel for the petitioners would submit that when the case was posted for cross-examination of P.W.1 evidence on 26.07.2016, the petitioners were not in a position to cross-examine the witness as there was a boycott and that the petitioners did not have any legal knowledge so as to cross-examine the witnesses.

3. The said recall and reopen applications were resisted by the respondents/plaintiffs on the specific contention that only with a view to delay and drag on the matter, such applications have been filed. It was



further contended by the respondents/plaintiffs that the ground urged by the petitioners for recall and reopen is advocate boycott, which is contrary to the settled position of the Hon'ble Supreme Court.

4. The learned Trial Judge, after referring the judgment of the Hon'ble Supreme Court in the case of *Ex.Caption Harish Uppa Vs. Union of India* , held that the advocate boycott cannot be a justifiable reason to condone the act of the petitioners and ultimately dismissed the applications.

5. The learned counsel for the petitioners would submit that though advocate boycott is illegal and contrary to the dictum laid down by the Hon'ble Supreme Court, the learned counsel urged before this Court that for the fault of their counsel for not participating in the court proceeding cannot be put against the petitioners.

6. This Court is persuaded with the submissions made by the learned counsel for the petitioners. It is pertinent to mention here that in the affidavit, the petitioners have categorically stated that they do not have any



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legal knowledge so as to cross-examine the witnesses. In view of such peculiar circumstances, the petitioners cannot be penalised for the default committed by their counsel. Hence, in the interest of justice, this Court is inclined to allow both the Civil Revision Petitions.

7. In the result, the Civil Revision Petitions are allowed by directing the petitioners to pay a sum of Rs.2000/- each in both the petitions to the respondents herein within a period of four (4) weeks from the date of receipt of a copy of this order, failing which, both the Civil Revision Petitions will be automatically dismissed without any further reference to this Court. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

02.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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1. The District Munsif Court,
Mudukulathur.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

Lm

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