



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)Nos.2061 and 2062 of 2017
and
C.M.P.(MD)No10239 and 10240 of 2017

A.Suresh

... Petitioner in both cases

vs.

P.Velusamy

...Respondent in both cases

PRAYER in C.R.P.(MD)No.2061 of 2017: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order, dated 31.07.2017 made in I.A.No.556 of 2017 in O.S.No.145 of 2010 on the file of the Subordinate Judge, Theni.

PRAYER in C.R.P.(MD)No.2062 of 2017: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order, dated 31.07.2017 made in I.A.No.559 of 2017 in O.S.No.26 of 2011 on the file of the Subordinate Judge, Theni.



WEB COPY



For Petitioner :Mr.A.Logesh Kumar
for Mr.R.Suriyanarayanan
For Respondent :Mr.B.Jeyakumar

ORDER

Both these Civil Revision Petitions have been filed by the plaintiff as against the orders passed by the learned Subordinate Judge, Theni, in I.A.No.556 of 2017 in O.S.No.145 of 2010 and I.A.No.559 of 2017 in O.S.No.26 of 2011, dated 31.07.2017.

2.Heard Mr.A.Logesh Kumar, learned Counsel appearing for the petitioner and Mr.B.Jeyakumar, learned Counsel appearing for the respondent.

3.The Revision Petitioner is the plaintiff in the suit in O.S.Nos.145 of 2010 and 26 of 2011 on the file of the Subordinate Court, Theni. The said suits were filed for declaration and for injunction. On the side of the plaintiff, PW-7 was examined in chief on 07.07.2017. The defendant could not conduct the cross examination on that date and he had filed the above applications before the trial Court to recall PW-7 for cross examination. The learned Subordinate Judge, Theni, had allowed those applications. Aggrieved by the same, the above Civil



Revision Petitions have been filed.

4.The learned Counsel appearing for the petitioner/plaintiff contended that a fraud has been played on the Court, as the respondent/defendant was actually not available in India and he was in United States of America and he had raised an objection by having a document to prove that the defendant was in United States of America.

5.Per contra, the learned Counsel for the respondent contended that the respondent is very much available in India and because of the pendency of the above Civil Revision Petitions, the trial has come to stand still.

6.When a respondent/defendant pleads that he is very much available in India for cross examination, there cannot be any impediment for the plaintiff to suspect or question the credibility of the defendant. Hence, both the Civil Revision Petitions are dismissed. As the suits are of the year 2010, the trial Court



WEB COPY

is directed to complete the trail on day-today basis within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

Internet :Yes/No
NCC :Yes/No
Index :Yes/No

To

The Subordinate Judge, Theni.



WEB COPY



N.SENTHILKUMAR, J.

cmr

Order made in
C.R.P.(MD)(PD)Nos.2061 and 2062 of 2017

19.11.2024