



CRP(MD)Nos.3137 and 3149 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/02/2024

WEB COPY

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CRP(MD)Nos.3137 and 3149 of 2023

and

CMP(MD)Nos.16123 and 16176 of 2023

(1)CRP(MD)No.3137 of 2023:-

D.Selvaraj @ Thangadurai : Petitioner/Respondent/
Defendant

Vs.

P.Mohan : Respondent/Petitioner/
Plaintiff

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records pertaining to the suit in OS No.25 of 2015 on the file of the Additional District Munsif Court, Vallioor, Tirunelveli District and to allow the civil revision petition by setting aside the fair order and decreetal order made in IA No.17 of 2023 in OS No.25 of 2015, dated 06/10/2023 and pass further or other orders.

(2)CRP(MD)No.3149 of 2023:-

D.Selvaraj @ Thangadurai : Petitioner/Respondent/
Defendant

Vs.

P.Mohan : Respondent/Petitioner/
Plaintiff



CRP(MD)Nos.3137 and 3149 of 2023

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records pertaining to the suit in OS No.25 of 2015 on the file of the Additional District Munsif Court, Vallioor, Tirunelveli District and to allow the civil revision petition by setting aside the fair order and decreetal order made in IA No.16 of 2023 in OS No.25 of 2015, dated 06/10/2023 and pass further or other orders.

For Petitioner : Mr.S.R.Anbarasu
(in both cases)

For Respondent : Mr.H.Arumugam
(in both cases)

COMMON ORDER

These civil revisions petitions are filed seeking to set aside the fair and decreetal orders, dated 06/10/2023 passed in IA Nos.16 and 17 of 2023 in OS No.25 of 2015 on the file of the Additional District Munsif, Vallioor.

2.The facts in brief:-

The suit in OS No.25 of 2015 was filed by the respondent namely Mohan against the petitioner seeking the relief of declaration and consequential permanent injunction. The defendant appeared, filed written statement, issues were framed, trial commenced. Pending further process IA No.16 and 17 of 2023 were taken out by this petitioner with the following averments:-



CRP(MD)Nos.3137 and 3149 of 2023

After completion of the evidence on both sides, the petitioner consulted the further course of action with his Advocate. At that time, certain documents were found available in the case bundle. On that account, they wanted to reopen the case and mark certain documents. For which, they filed IA Nos.10 to 12 of 2023. Those petitions were allowed. He was also examined. Later, some other documents were also produced and marked. With regard to those documents, they want to confront with the defendant, for that purpose, the present applications are filed seeking to recall the defendant and for further examination.

3.That was resisted by the respondent stating that only to drag on the proceedings, the belated attempt is made. There was already an order passed by this court in CRP(MD)No.708 of 2023 to dispose of the matter within a period of three months.

4.The trial court, after considering the rival submissions, those applications were allowed without costs.

5.Against which, these revisions are preferred by the defendant on the ground that there is no reason for



recalling himself for further examination. No proper reason are also stated in the petition. In spite of that, it was allowed by the trial court.

6. Heard both sides.

7. The learned counsel appearing for the petitioner would submit that Order 18 Rule 17 CPC cannot be invoked by the parties on their whims and fancies. It must be the discretion of the trial court, which must be exercised only sparingly that too when the further examination of the parties are required by the court for the just decision of the case.

8. Order 18 Rule 17 CPC reads as under:-

"O.18 R.17-Court may recall and examine witness.-The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as to the Court thinks fit."

9. By pointing out this provision, now the learned counsel appearing for the petitioner would submit that invoking that provision by the respondent cannot be permitted.



WEB COPY



CRP(MD)Nos.3137 and 3149 of 2023

10.Per contra, the learned counsel appearing for the respondent would submit that new documents were exhibited and the respondent must be confronted with those documents. When similar request was made by the respondent to confront this petitioner with reference to the very same document, this objection is made by the petitioner, which according to the learned counsel appearing for the respondent, is not proper and acceptable.

11.No doubt that Order 18 Rule 17 CPC cannot be invoked by the parties at their free will and choice and it is also the discretion of the courts. But when the discretion is exercised in a particular manner, unless the petitioner is able to substantiate that it has been wrongly exercised, no interference can be made by this court.

12.Here as pointed by the respondent, it is the right of the respondent to confront the petitioner with reference to the document, which was already exhibited. If not, then prejudice may cause to him. So on that ground, the order passed by trial court, in my considered opinion requires no interference at all.



CRP(MD)Nos.3137 and 3149 of 2023

WEB COPY

13.In the result, both the civil revision petitions are **dismissed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

28/02/2024

Index:Yes/No
Internet:Yes/No

er

To,

The Additional District Munsif,
Vallioor,
Tirunelveli District.



WEB COPY



CRP(MD)Nos.3137 and 3149 of 2023

G.ILANGO VAN, J

er

CRP (MD) No. 3137 and 3149 of 2023

28/03/2024