

(2013) 02 MAD CK 0037

In the Madras High Court

Case No : C.R.P. (PD) (MD) No. 734 of 2012 and M.P. (MD) No. 1 of 2012

Dr. K. Mummoorthy

APPELLANT

Vs

The Superintending Engineer, Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 18-02-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 18 Rule 17

Citation : (2013) 2 LW 875 : (2013) 4 MLJ 221

Hon'ble Judges : S. Vimala, J

Bench : Single Bench

Advocate : M.P. Senthil, for the Appellant; M. Mohan Babu, for the Respondent

Final Decision : Dismissed

Judgement

S. Vimala, J.—The Plaintiff is the revision petitioner. The plaintiff has filed a suit for damages against the defendant in respect of the damages

caused by the defendant to the building which was let out by the Plaintiff to the defendant. The power of attorney of the plaintiff was examined as

P.W. 1. The Plaintiff filed an application under Order 18 Rule 17 of CPC seeking permission of the Court to recall P.W.1 for the purpose of

marking some documents. The Petition was opposed on the ground that the document that is sought to be marked was not specifically mentioned

in the Petition and also that details of important point omitted to be stated was not specifically stated. Accepting the contention of the respondent,

the Trial Court has dismissed the Petition.

2. The learned counsel for the revision Petitioner has contended that the aim of the Petitioner was not to fill up the lacunae in the evidence that is

left out in the evidence of P.W.1 and the only objective is to mark the documents that was obtained by the revision Petitioner by using the tools

available under Right to Information Act. The learned counsel has also produced the details of documents that are sought to be marked now. One

of the document that is sought to be marked is, to show that the Superintending Engineer has got the authority to enter into the lease transaction.

This is referred to in the letter, dated 02.09.2010.

3. The second document pertains to the details regarding payment of rent to other buildings occupied by the Tamil Nadu Electricity Board. It

appears that one of the contentions of the defendant is that the rent claimed by the plaintiff is excessive/exorbitant. To show that in respect of

similarly placed buildings, the Tamil Nadu Electricity Board is paying more rent, yet another document is relied upon. Having regard to the source

from which the document emanated and also the purpose for which the documents are sought to be marked, the permission to recall the evidence

of P.W. 1 should be granted.

4. The fact remains that had all these details been furnished before the trial Court itself, there would not be any occasion for the trial Court to

dismiss the Petition. However, having regard to the fact that the details are now furnished before this Court about the documents sought to be

marked, the revision Petitioner can be accorded the permission to recall the evidence of P.W.1 only for the limited purpose of marking those two

documents mentioned above. With the above observation, to the extent indicated above, the Civil Revision Petition is allowed. Consequently,

connected Miscellaneous Petition is closed. No costs.