

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) No.38 of 2015andM.P.No.1 of 2015

M.Sampath Pillai

...

Petitioner

Vs.

1. Manjula

2. R.Rajendiran

3. B.Saravanan

4. Thamaraiselvi

...

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to order dated 05.01.2015 passed in I.A.SR.No.1899 of 2014 in O.S.No.67 of 2010 on the file of the District Munsif Court, Ranipet and set aside the same.

For Petitioner	:	Ms.Usha Ramman
For Respondents	:	Mr.T.P.Prabhakaran

ORDER

The petitioner is the plaintiff in O.S.No.67 of 2010. He filed the suit against the respondents for declaration of title and for permanent injunction.

2. After the plaintiff's side evidence was over, the defendant examined D.W.1 and the suit was posted for cross-examination of D.W.1 on 18.12.2014. The petitioner filed an application praying for extension of time to cross-

examine D.W.1 stating that he required some important documents. The trial Court closed the evidence of D.W.1 and posted the case for arguments on 05.01.2015.

3. The petitioner filed I.A. SRNo.1899 of 2014 seeking to recall D.W.1 for cross-examination. The learned Judge dismissed the application. Aggrieved by the order, the present civil revision petition is filed.

4. Ms.Usha Ramman, learned counsel for the petitioner submitted that the plaintiff should be given an opportunity to cross-examine D.W.1 and there was no delay in the cross-examination of D.W.1. The learned counsel further submitted that the petitioner has marked nearly 81 documents to establish his case and the trial Court, however, closed the evidence of D.W.1 giving only a short period of three days.

5. Mr.T.P.Prabhakaran, learned counsel for the respondents submitted that despite opportunities were given to the petitioner, he has not chosen to cross - examine D.W.1. It is further submitted that only to drag on the said proceedings, he filed this application.

6.It is not in dispute that the petitioner has filed the suit for declaration of title and for permanent injunction. This Court is of the view that the petitioner should be given an opportunity to establish his case. It is seen that there is no laches or inordinate delay in filing this application.

Considering the facts, the civil revision petition is allowed. The order dated 05.01.2015 passed by the District Munsif Court, Ranipet in I.A.SR.No.1899 of 2014 in O.S.No.67 of 2010 is set aside. The trial Court shall dispose of the suit on merits within a period of three months from the date of receipt of copy of the order. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2015

Index : Yes/No
Internet: Yes/No
sms

To

The District Munsif Court, Ranipet

K.KALYANASUNDARAM,J.

sms

C.R.P.(PD) No.38 of 2015

and

M.P.No.1 of 2015

03.02.2015