



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

WEB COPY

C.R.P.PD (MD).Nos.399 and 400 of 2015

and

M.P.(MD) No.1 of 2015

1. Abdul Wahab
2. Julaika Ammal
3. Mohamed Abupakkar ... Petitioners/Respondents 1 to 3/
Defendants 1 to 3 in both petitions

Vs.

1. M.Ramzan ... 1st Respondent/Petitioner/Plaintiff
in both petitions

2. The Sub Registrar,
Sub Registrar's Office,
Adhirampattinam Town,
Pattukkottai Taluk and Munsifi,
Thanjavur District.

3. The District Collector,
District Collector's Office,
Katcheri Road,
Thanjavur Town, Taluk & Munsifi
Thanjavur District. .. Respondents 2 & 3/Respondents 4 & 5/
Defendants 4 & 5
in both petitions

COMMON PRAYER : Civil Revision Petition under Article 227 of the
Constitution of India, to set aside the fair and decreetal order passed
by the District Munsif Court at Pattukkottai in I.A.Nos.705 and 706 of
2014 in O.S.No.10 of 2010, dated 05.01.2015.

For Petitioners
in both petitions : Mr.M.R.S.Prabhu
For Respondents
in both petitions : No Appearance

COMMON ORDER

The first respondent filed a civil suit in O.S.No.10 of 2010 before
the learned District Munsif, Pattukkottai praying for a decree of
permanent injunction restraining the petitioners from alienating the suit
property and the Sub Registrar from registering the related sale deeds.
The suit was contested by the petitioners by filing written statement.

2. The first respondent filed an application in I.A.Nos.705 and 706
of 2014 to reopen the evidence on the side of the defendants and to
cross-examine D.W.1. The applications were allowed by the learned
District Munsif, by order dated 05th-January-2015. Aggrieved by the
same, the petitioners have come up with this Civil Revision Petition.



3. The learned Counsel for the petitioners contended that the first respondent was given sufficient opportunity to cross-examine D.W.1. According to the learned Counsel, the first respondent earlier filed a similar application in I.A.Nos.577 and 578 of 2014 to reopen and to recall D.W.1. Even though D.W.1 was present on all the dates of hearing, the first respondent failed to cross-examine him. According to the learned Counsel, while allowing the applications, the learned trial Judge failed to consider the background facts and as such, the order is to be set aside.

4. None appears on behalf of the respondents.

5. The only question that arises for consideration is as to whether the learned trial Judge was correct in reopening the side of the defendants for the purpose of cross-examination of D.W.1.

6. The suit in O.S.No.10 of 2010 was posted on various occasions on 29.10.2014, 03.11.2014, 05.12.2014 and 16.12.2014 for cross-examination of D.W.1. Though D.W.1 was present, there was no cross-examination at the instance of the first respondent. The matter was ultimately posted on 16.12.2014. Since the Counsel for the first respondent could not reach the Court early, he failed to cross-examine D.W.1 on 16.12.2014. It was only under the said circumstances, the first respondent filed an application in I.A.NO.705 of 2014 and I.A.No.706 of 2014.

7. The learned trial Judge in the light of the background facts, allowed the applications, subject to payment of costs. The trial Judge is the master of the Court. He is aware of the earlier proceedings and the stage at which the applications were filed to reopen and recall D.W.1.

8. The learned trial Judge exercised his discretion in favour of the first respondent by compensating the petitioners by payment of costs. I am therefore of the view that no interference is necessary in the orders impugned in the Civil Revision Petitions by exercising the jurisdiction under Article 227 of the Constitution of India.

9. The learned District Munsif, Pattukkottai is directed to post the case for cross-examination of D.W.1, within a period of one week from the date of receipt of a copy of this order. The first respondent is directed to cross-examine the witness on the next date of hearing. No adjournment would be granted to the first respondent to cross-examine D.W.1 at any cost. In case, the first respondent failed to cross-examine D.W.1 on the next date of hearing, the evidence on the side of the defendants would be closed and the matter would be posted for arguments. The trial Judge is directed not to grant more than one opportunity to the first respondent to cross-examine D.W.1.

10. The Civil Revision Petitions are dismissed with the above observation. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(RTI)

\\True copy\\

Sub Assistant Registrar

To

The Court of District Munsif, Pattukkottai.

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