

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) Nos.1815 to 1818 of 2015

and

M.P.Nos.1,1,1 and 1 of 2015

Gopal Pillai

.. Petitioner in all C.R.Ps

-VS-

Muralidharan

..Respondent in all C.R.Ps

Prayer in all C.R.P.Nos.1815 to 1818 of 2015:

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair order and decretal order dated 04.02.2015 in I.A.Nos.7,8,18 and 32 of 2015 in O.S.No.88 of 2006 on the file of the Hon'ble District Munsif Court, Tambaram.

For Petitioner in
all C.R.Ps

: Mr.S.Parthasarathy
for Mr.S.Vijay Prashanth

For Respondent in
all C.R.Ps

: Dr.R.Sampath Kumar

COMMON ORDER

The sole defendant in O.S.No.88 of 2006 pending on the file of the Court of District Munisf, Tambaram is the petitioner in the Civil Revision Petition. The respondent herein is the plaintiff in the said suit.

2. Notice before admission was given and the respondent has entered appearance through counsel. The arguments advanced on both sides are heard. The certified copy of the impugned order and the copies of the other documents produced in the form of typed-set of papers are also perused.

3. The petitioner and the respondent are related to each other. The revision petitioner/defendant is none other than the son of the paternal grandfather's sister of the respondent/plaintiff. Admittedly, the revision petitioner's mother Muniyammal was the original owner of the suit property.

4. Contending that she conveyed it to the respondent/plaintiff by a oral sale, the respondent/plaintiff filed the above said suit O.S.No.88 of 2006 on the file of the trial Court for bare injunction against the revision petitioner/defendant, not to interfere with her alleged peaceful possession and enjoyment of the suit property.

5. The suit is being resisted by the revision petitioner/defendant. The revision petitioner/defendant claims to have derived title to the suit property from his mother. He also disputes the

claim of the respondent herein / plaintiff to be in possession of the suit property. Pending disposal of the suit, the respondent herein / plaintiff filed an interlocutory application for interim injunction. The same was allowed and the order of the trial Court made therein was confirmed by the lower appellate Court in a Civil Miscellaneous Appeal. As against the said judgment of the lower appellate Court, the revision petitioner / defendant filed a revision in C.R.P.No.3891 of 2010 before this Court.

6. A learned Single Judge of this Court, after hearing, passed an order disposing of the said Civil Revision Petition by the following order:-

"Taking the above into consideration, I direct the learned District Munsif, Tambaram, to dispose of the suit in O.S.No.88 of 2006 on merits, as expeditiously as possible, preferably on or before 30.03.2011. While doing so, the learned trial Judge shall not be influenced by the orders made in the Interlocutory Application as well as in the Civil Miscellaneous Appeal. Till the disposal of the suit, the petitioner as well as the respondent shall maintain status quo."

The above said order of *status quo*, passed by this Court is still in force. However, the parallel direction issued by this Court for the disposal of the suit on or before 30.09.2011 has not been complied with. Thereafter, three other suits, all filed by the respondent herein /

plaintiff in respect of the same property but for different reliefs were also clubbed with O.S.No.88 of 2000 and a joint trial was conducted.

7. Pursuant to the directions issued by this Court, the trial Court took up the suit for trial and after completion of trial, the trial Court reserved the case for judgment in March 2014. When the judgment was due to be pronounced, the respondent herein / plaintiff filed three applications I.A.Nos.765 to 767 of 2014 to re-open the case, to recall P.W1 and to receive additional documents. Those three applications were dismissed by the trial Court by a common order dated 12.11.2014. As against the said common order and decretal orders, no revision came to be filed. The trial Court proceeded with hearing further arguments and reserved the case for pronouncing judgment on 09.01.2015. On 08.01.2015, namely, a day before the due date for judgment, the respondent/plaintiff again filed three applications I.A.Nos.7,8 and 18 of 2015 to re-open the case, to re-call PW-1 and to receive additional documents. Subsequently, the respondent herein/plaintiff also filed another application I.A.No.32 of 2015 to receive some more documents.

8. All the applications were resisted by the revision

petitioner/defendant contending that they were belated and they did not have merit in them. Turning down the objections raised by the revision petitioner/defendant, the learned trial Judge, by a common order dated 04.02.2015, passed a conditional order, allowing all the four applications subject to a condition of payment of a sum of Rs.750/- in each of the said applications as costs to the revision petitioner / defendant. It is as against the said common order and the decretal orders passed in those applications, the present revisions, namely, C.R.P.Nos.1815 to 1818 of 2015 came to be filed.

9. It is the contention raised on behalf of the revision petitioner that the trial Court, without properly appreciating the contention of the revision petitioner / defendant, which was to the effect that the above said applications were ruses for prolonging the case as long as possible, passed the impugned orders and misconstruing defence, as if, the revision petitioner herein / defendant was contending that the applications were barred by *res judicata*, the trial Court passed the impugned orders.

10. This Court's attention has also been drawn to the fact that

similar set of applications filed earlier were dismissed by the trial Court and the same was not challenged by filing any revision. It is also brought to the notice of the Court that the earlier set of applications were filed when the trial was over and the judgment alone was due to be pronounced. It is quite obvious from the said facts that the respondent /plaintiff has approached the trial Court first with one set of applications for adducing additional evidence on the basis of the some of the documents, which came to be turned down by the trial Court and thereafter, made a second attempt by filing the applications concerned in these revisions to re-open the case and to re-call PW-1 for introducing another set of documents. It is also obvious that after advancing arguments and submitting written arguments, the second set of applications came to be filed and the said applications were resisted on the ground of belatedness and being an abuse of process of Court.

11. The learned counsel for the respondent/plaintiff makes an attempt to contend that though the prayer made in the earlier applications for introducing certain documents were turned down and no challenge was made to the said orders passed in the earlier applications, due to the development caused, the respondent/plaintiff

had to approach with the present applications for introducing documents which came into existence subsequently. If the said submission of the learned counsel for the respondent/plaintiff is taken on its face value, it may appear to be tenable, However, it is argued on behalf of the revision petitioner / defendant that the respondent herein / plaintiff was going on procuring documents altering status quo despite the fact that the High Court in C.R.P.3891 of 2010 had directed maintenance of *status quo* and that such documents procured alone were sought to be introduced as additional documents a day before the date fixed for the pronouncement of the judgment.

12. The learned counsel for the respondent/plaintiff would contend that the patta issued in the name of the revision petitioner / plaintiff came to be cancelled in the year 2014 and that, the respondent / plaintiff got copies of those documents only in December 2014 which made the respondent/plaintiff to approach the Court with the second set of applications. On the other hand, it is argued on behalf of the revision petitioner / defendant that after the passing of the status quo order by this Court, the respondent/plaintiff got a settlement deed executed by his sister in his favour and based on that the respondent / plaintiff was able to get mutation of his name in the

revenue records without notice to the revision petitioner / defendant and without disclosing the fact that an order of *status quo* was in force and that such documents brought into effect during the pendency of the suit and after the passing of the status quo order are sought to be introduced in support of the case of the respondent/plaintiff.

13. The said facts will make it obvious that the respondent herein /plaintiff was making hectic efforts, despite the direction issued by this Court for the disposal of the case on or before a particular date, to prolong the case at the first instance by seeking joint trial of all four cases, next by filing the first set of applications for re-opening the case, re-calling P.W1 and for receiving additional documents when the cases stood reserved for judgment for the first time, thereafter by filing second set of applications and lastly by filing one more application projecting the documents obtained during the currency of the order of *status quo* as documents sought to be produced. It is quite obvious that the respondent/plaintiff, by such dilatory tactics has caused a delay of about 4 years from the date fixed for the disposal of the cases by the order of this Court in C.R.P.No.1891 of 2010. The learned trial judge seems to have misunderstood the contention raised by the revision petitioner / defendant in opposing the said applications

as belated and as an attempt to prolonging the cases as an abuse of process of Court. The learned trial Judge, on a misconception, held that the applications were resisted on the plea of *res judicata* showing the dismissal of the earlier set of applications.

14. A thorough consideration of the above said aspects will make it clear that the learned trial Judge has fallen a prey to the dilatory tactics adopted by the respondent herein / plaintiff and the same resulted in the passing of the impugned order un-meaningful of the steps taken by the respondent herein / plaintiff to protract the case despite there being a direction for the disposal of the case on or before a particular day. If the impugned order cannot be considered to be an order encouraging abuse of process of Court to prolong the case, there cannot be a better case than this one.

15. For all the above said reasons, this Court comes to the conclusion that the order of the trial Court suffers from defect and infirmity and the exercise of the jurisdiction in favour of the respondent/plaintiff shall be construed as an exercise with material irregularity leading to miscarriage of justice. Hence, this Court does have no hesitation in interfering with the same and setting aside the

same.

16. In the result, all the Civil Revision Petitions are allowed. The orders of the trial Court dated 04.02.2015 made in I.A.Nos.7,8,18 and 32 of 2015 in O.S.No.88 of 2006 are set aside. I.A.Nos.7,8,18 and 32 of 2015 shall stand allowed. Since the time prescribed by this Court for the disposal of the cases has expired five years back, this Court hereby directs the trial Court to dispose of the cases within two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

18.04.2016

Index: Yes/No

Internet: yes/No

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To

The District Munsif Court,
Tambaram.

P.R.SHIVAKUMAR.J

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