

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P.(PD) Nos.2530 & 2531 of 2015

1. V.Sumathi
2. B.Sivakanthi .. Petitioners in both C.R.Ps.

Vs.

K.Unnikrishnan ... Respondent in both C.R.Ps.

Civil Revision Petitions filed under Article 227 of Constitution of India, seeking to set aside the fair and final orders dated 06.06.2007 passed in I.A.No.475 of 2015 and I.A.No.476 of 2015 in O.S.No.260 of 2007 on the file of the Additional District Munsif Court, Tirupattur, Vellore District.

For Petitioners in both C.R.Ps. : Mr.D.Balachandran

For Respondent in both C.R.Ps. : Ms.C.Kanimozhi for
M/s.Sivakumar & Suresh

COMMON ORDER

The petitioners have come up with the present Civil Revision Petitions praying to set aside the orders dated 06.06.2007 passed in I.A.No.475 of 2015 and I.A.No.476 of 2015 in O.S.No.260 of 2007 on the file of the Additional District Munsif Court, Tirupattur, Vellore District, whereby, the petitions seeking to reopen the plaintiff side witnesses and recall the evidence of P.Ws.1 and 2 for further cross-

examination, came to be allowed.

2. Learned counsel for the petitioners would submit that the petitioners herein filed a suit for permanent injunction and the respondent herein is contesting the same. On the side of the petitioners/plaintiffs, P.Ws.1 and 2 were examined in chief and cross-examination is also over. When the matter was posted for examination of witnesses on the side of the defendant, the respondent/defendant filed applications to reopen the plaintiff side evidence and recall the witnesses, P.Ws.1 and 2 for further cross-examination and the same came to be allowed.

3. It is the contention of the learned counsel for the petitioners that no proper reason has been assigned in the impugned order as to why the witnesses P.Ws.1 and 2 should be recalled and that the Court cannot permit the parties to fill up the lacunae in the evidence which has already been recorded. Further contending that the main intention of the respondent/defendant is only to drag on the proceedings, learned counsel for the petitioners prayed for setting aside the impugned orders.

4. Learned counsel appearing for the respondent/defendant would submit that during cross-examination of the witnesses, P.Ws.1 and 2, the defendant will certainly not put the same questions to them. Further stating that the defendant has complied with the conditional order dated 06.06.2007 by paying costs and that he is ready to co-operate with the disposal of the suit, learned counsel for the respondent/defendant sought dismissal of the above Revision Petitions.

5. On a perusal of the typed set of papers, it is seen that the petitioners/plaintiffs filed a suit for permanent injunction stating that the suit property originally belongs to the grandfather of the petitioners, viz. Santhikara Aandi Gounder and thereafter, vide Sale Deed dated 17.03.1959, the suit property came to be in the possession of their grandmother, viz. Nachiammal and father, Malayan and they were in possession and enjoyment of the property till they partitioned the same. Later, the suit property was partitioned in favour of the plaintiffs' father, Malayan and by a Settlement Deed dated 30.07.2007, the suit property was settled in favour of the plaintiffs and from then onwards, the plaintiffs are in possession and enjoyment of the suit property. According to the

petitioners/plaintiffs, since the respondent/defendant, who is their adjacent land owner attempted to interfere with their peaceful possession and enjoyment of the suit property, they were constrained to file a suit for permanent injunction.

6. The respondent/defendant filed a written statement and is contesting the same. In the written statement, it is stated that the suit property originally belonged to one R.Srinivasan. Later his Power of Attorney, one A.P.Varadaraju sold the said property to one Mr.K.Suresh on 17.03.2005 and from then onwards, he was in possession and enjoyment of the suit property. Thereafter, on 12.06.2006, the suit property was sold to one Charles, and on 09.04.2008, it was sold to the defendant, K.Unnikrishnan, S/o.K.K.Menon and since then, the defendant is in legal possession and enjoyment of the suit property. It is further stated in the written statement that the plaintiffs' father Malayan was aware of the above facts; that the plaintiffs are unaware of the contents of the suit and that the suit is filed only on the instigation of the their father, Malayan.

7. Heard the rival submissions of the learned counsel on either side. The only point to be decided in this case is whether the order passed by the Trial Court is acceptable, since the suit has been filed for permanent injunction. It is the duty of the plaintiffs to prove that they are the owner of the suit property and are in legal possession of the same. But, the respondent/defendant has filed an application after the cross-examination of P.Ws.1 and 2. Keeping in mind the endeavour of the respondent/defendant and in order to give him an opportunity, the Trial Court has allowed the applications to reopen the evidence and recall the witness, viz. P.Ws.1 and 2, on payment of costs.

8. In such circumstances, **I do not find any merits in allowing these Civil Revision Petitions.** At the end, learned counsel for the petitioners pleaded that a direction may be given to the Trial Court to dispose of the suit within a stipulated period.

9. Taking note of the said submission, since the suit is of the year 2007, **the Trial Court is directed to dispose of the suit in O.S.No.260 of 2007 within a period of two (2) months from the date of receipt of a copy of this order.** The

respondent/defendant is directed to co-operate with the trial for an early disposal.

These Civil Revisions Petitions are dismissed with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.01.2016

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Index : Yes/No
Internet : Yes/No

To :
The Additional District Munsif Court,
Tirupattur, Vellore District.

R.MALA,J.

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