

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.1102 of 2016
and C.M.P.No.6077 of 2016

Selvaraj ... Petitioner

Vs.

Krishnamurthy ... Respondent

PRAYER: Civil Revision Petition filed against the fair order under Article 227 of the Constitution of India against the fair and final order of the District Munsif cum Judicial Magistrate Court, Nanninalam, dated 14.10.2015 made in I.A.No.237 of 2016 in O.S.No.46 of 2008.

For Petitioner: Mr.S.Sounthar

ORDER

The plaintiff in a suit for permanent injunction is the revision petitioner challenging an order refusing to reopen the case for the purpose of cross examining one of the Mediators between the parties on an earlier occasion.

2. It is the case of the petitioner that one Elangovan, who was also the mediator was examined on the side of the defendant,

which is obviously after the plaintiff's side evidence was closed. Now, the plaintiff is pleading to examine one Selvamani and Abdul Zabar, who were trying to mediate between the plaintiff and the defendant.

3. In the affidavit, it is also stated that the plaintiff wanted to examine one person called Ramesh. But, the same was resisted by the defendant contending that it is only an exercise of procrastination.

4. The learned District Munsif, Nannilam, after hearing both sides, had dismissed the application, which is now under challenge.

4. When a suit is for permanent injunction, only the factum of possession has to be gone into and other aspects need not be considered. It is not the case of the plaintiff that he wanted to examine three persons after reopening the case, who were not available at the time of plaintiff's side evidence and there is no specific reason given for not examining at that point of time. Merely because the defendant had examined one of the mediators, does not automatically entitle the plaintiff to examine the mediator on his side also, when the matter is posted for argument. Therefore, there is no considerable reason for allowing this application. The trial Court had also dismissed on the very same ground that it is not necessary to

adduce the evidence on the side of the plaintiff.

4. Accordingly, I do not find any infirmity in the order passed by the Court below. However considering the fact that the suit is of the year 2008, the learned District Munsif, Nannilam is directed to dispose of the same on or before 28.02.2016. and report to this Court. Hence, this Civil Revision is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5. Post the Civil Revision Petition for reporting compliance on 03.03.2016.

05.12.2016

Index : Yes/No

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To

The District Munsif cum Judicial Magistrate Court,
Nanninalam

PUSHPA SATHYANARAYANA.J

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