

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] Nos.134 and 135 of 2016
and C.M.P.No.686 of 2016
in C.R.P.[PD] No.134 of 2016

Basker

... Petitioner
in both CRP

Vs

Veerasamy

... Respondent
in both CRP

C.R.P.[PD] No.134 of 2016 : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decree order as made in I.A.No.117 of 2015 in O.S.No.274 of 2011 dated 11.06.2015 on the file of the Principal District Munsif Court, Cuddalore, dismissing the petition filed by the petitioner herein/defendant.

C.R.P.[PD] No.135 of 2016 : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order as made in I.A.No.118 of 2015 in O.S.No.274 of 2011 dated 11.06.2015 on the file of the Principal District Munsif Court, Cuddalore, dismissing the petition filed by the petitioner herein/defendant.

For Petitioner : Mr.S.Vediappan
in both CRP

For Respondent : Mr.R.Subramanian
in both CRP

COMMON ORDER

The arguments advanced on both sides are heard. The materials available on record are also perused.

2. Respondent has entered appearance through counsel. Arguments advanced on both sides are heard. The defendant in the Original Suit is the petitioner in the Civil Revision Petitions. After completion of the evidence on both sides, the suit stood posted for hearing arguments and at that point of time, the petitioner/defendant filed I.A.No.117 of 2015 and 118 of 2015 to re-open the case and to re-call DW1. The learned trial Judge, after hearing both sides, dismissed the said applications by a common order dated 11.06.2015. As against the decretal orders in the said applications, the present Civil Revision Petitions have been filed.

3. It is brought to the notice of the Court that the evidence on the side of the defendants was closed as early as on 16.12.2014 and the petitions for re-opening the case and re-calling DW1 came to be filed only in February 2015. The reason for seeking such an order to re-open the case and to re-call DW1 is stated to be "to speak about the F.M.B. relating to the property in dispute." There is nothing in the supporting affidavit to show that the defendant was prevented by a reasonable cause from producing the F.M.B. or leading evidence touching the measurements found in the Field Measurement Book.

4. It is also pertinent to note that, along with the applications for re-opening the case and re-calling DW1, the copy of the F.M.B. relating to the suit property has not been filed. The very averment found in the affidavit will show that the petitions were filed, in order to prolong the case whereby, further prolongation may be made by filing an application to summon the F.M.B. from the concerned authorities. The same will show that the petitions are not only belated, but also intended to prolong the case and delay the disposal of the case. The learned trial Judge has not committed any error in non-suiting the petitioner/defendant for the reliefs sought for in the said applications. This Court does not find any defect or error, much less error in exercise of jurisdiction in the impugned orders of the trial Court, warranting interference by this Court in exercise of its power under Article 227 of the Constitution of India. There is no merit in the revision and the same deserves dismissal.

5. In the result, both the Civil Revision Petitions are dismissed. The trial Court is directed to proceed with the trial and dispose of the same as expeditiously as possible, in any event, not later than the end of the month of April 2016. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.03.2016

Index : Yes/No
Internet : Yes/No
gya

To

The Principal District Munsif,
Cuddalore.

P.R.SHIVAKUMAR, J.

gya

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