

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) Nos.2520, 2521 and 2522 of 2016
and
C.M.P.No.12971 of 2016

Sivalingam

S/o.Thandavarayan Padayachi

... Petitioner in all revisions

VS

1.Bakkiyam

W/o.Selvam

2.Gopal

S/o.Jayaraman

... Respondents in all revisions

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned Principal District Munsif, Cuddalore, passed in I.A.Nos.330, 331 and 332 of 2016 in O.S.No.446 of 2010 on 29.06.2016.

For Petitioner : Ms.R.Meenal

COMMON ORDER

These revisions arise against the order of learned Principal District Munsif, Cuddalore, passed in I.A.Nos.330, 331 and 332 of 2016 in O.S.No.446 of 2010 on 29.06.2016.

2. Petitioner/plaintiff has filed O.S.No.446 of 2010 on the file of learned Principal District Munsif, Cuddalore, seeking permanent injunction and other consequential reliefs. Petitioner/plaintiff moved I.A.Nos.330, 331 and 332 of 2016 seeking reopening of the case, recalling of PW-1 and to receive documents. Court below, under the impugned order, dismissed such applications. Hence, these revisions.

3. Heard learned counsel for petitioner.

4. In dismissing the applications, Court below has reasoned that there was no valid explanation as to why the documents were sought to be now produced. PW-1 has been examined in chief as also in cross and despite sufficient opportunity, no additional evidence had been adduced by petitioner/plaintiff and hence, the evidence of PW-1 was closed on 20.11.2015.

Further, when the case was at the stage of cross-examination of DW-1, learned counsel for petitioner/plaintiff reported no instructions and thereafter, upon notice, petitioner/plaintiff engaged the very same counsel and filed the present applications. The Court below, relying on the judgment of Apex Court in ***Vadiraj Nagappa Varnekar v. Sharad Chand Prabhakar Gogate [2009 (4) SCC 410]***, has informed that a witness could be recalled only in case of any ambiguity which needs to be clarified. In the absence of any ambiguity, a witness need not be recalled. In the instant case, there was no such ambiguity and there was no proper explanation by petitioner/plaintiff as to why the documents have not been produced at the time of his examination and why there was a delay in obtaining the sale deed dated 05.08.1935. This Court finds no error in the order under challenge.

The Civil Revision Petitions are dismissed. No costs. Connected miscellaneous petition is closed.

12.08.2016

Index:yes/no
Internet:yes
gm

To
The Principal District Munsif,
Cuddalore.

C.T.SELVAM, J

gm

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