



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2016

CORAM

THE HONOURABLE MR.JUSTICE.K.K.SASIDHARAN

CRP(MD).No.1660 of 2016

and

CMP(MD).No.8110 of 2016

G.Sivaji ... Petitioner/Petitioner/4th Defendant

Vs.

1.R.Chandra

2.R.Samuvel

3.R.Joseph Gnanakan

4.R.Benjamin

.. Respondents/Respondents/Plaintiffs

This Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.19 of 2016 in O.S.No.44 of 2013 dated 09.04.2016 on the file of the IV-Additional District Judge, Tirunelveli.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.Niranjan S.Kumar for
Mr.V.Balaji,

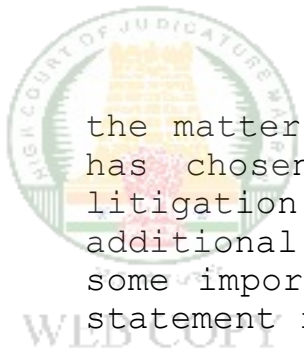
ORDER

This Civil Revision Petition is directed against the order dated 09.04.2016 in I.A.No.19 of 2016 in O.S.No.44 of 2013 whereby and whereunder the learned IV Additional District Judge, Tirunelveli dismissed the application filed by the petitioner to receive additional written statement, after posting the matter for arguments.

2. Heard the learned counsel for the petitioner.

3. The respondents filed a suit in O.S.No.44 of 2013 before the trial Court for partition. The petitioner was arrayed as fourth defendant. The petitioner filed his written statement and contested the suit on multiple grounds.

4. The trial Court after framing issues recorded the evidence of the parties. The matter was posted for arguments on 13.07.2015. The petitioner instead of arguing the matter, filed an application to recall P.W.1 for further cross-examination. The application was allowed on 21.01.2016. P.W.1 appeared before the trial Court. The petitioner invented a novel device of prolonging



the matter. He was expected to cross-examine P.W.1. However, he has chosen another method with a view to extend the life of litigation. The petitioner filed the application to receive additional return statement contending that due to inadvertence some important facts were omitted to be mentioned in the written statement filed earlier.

5. The petitioner in his affidavit filed in support of the application in I.A.No.19 of 2016 contended that only when his Counsel prepared the points for cross-examination, it was revealed that some important facts were not mentioned in the pleadings. The cross-examination of P.W.1 was over in 2015 itself. In fact, the suit was posted for arguments on 13.07.2015.

6. The petitioner wanted to demonstrate that the suit is bad for partial partition. I am informed by the learned counsel for the petitioner that another defendant has already taken up the said contention. Since the contention regarding partial partition has already been taken by one of the parties to the suit, there is no need for the petitioner to file another statement with the same plea after completion of trial.

7. The learned trial Judge considered the factual matrix in the light of the back ground facts and rightly refused to exercise the discretion. The petitioner has not made out a case to interfere with the discretionary order passed by the learned trial Judge. I am therefore of the view that there is absolutely no merit in the contention taken by the petitioner.

8. In the upshot, I dismiss the civil revision petition. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

ssm

To
The IV-Additional District Judge,
Tirunelveli.

+1 cc to Mr.H.Arumugam, Advocate, Sr.No: 47506
+1 cc to Mr.V.Balaji , Advocate, Sr.No: 47842
JAM/SKS-RR/15.09.16/ 2p-4c