



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).Nos.390 and 391 of 2016 and

CMP (MD).No.1728 of 2016 in CRP (MD).No.390 of 2016

WEB COPY

R. Saroja

:Petitioner in both CRPs

Vs.

1. P.Rajaram
2. S.Suseela Srinivasan
3. KVR.Kowsigan
4. Jothimani
5. Rajapappathi
6. Kalyani
7. Subramanian
8. Padmavathi
9. Surya
- 10.Devaki

:Respondents in both CRPs

Prayer: These Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 04.01.2006 on the file of the learned Additional District Munsif, Srivilliputur, passed in I.A.Nos.1451 and 1452 of 2015 respectively in O.S.No.335 of 2008.

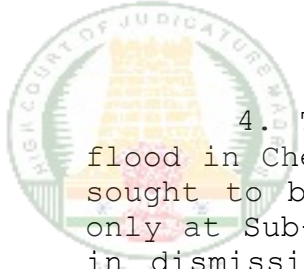
For Petitioner : Mr.N.Sundareshan
For Respondents : Mr.K.Sudalaiyandi

COMMON ORDER

The Civil Revision Petitions are filed against the fair and decreetal order, passed in I.A.Nos.1451 and 1452 of 2015 respectively in O.S.No.335 of 2008, dated 04.01.2006, on the file of the learned Additional District Munsif, Srivilliputur,

2. The revision petitioner is the plaintiff. The respondents are defendants.

3. The revision petitioner filed a suit in O.S.No.335 of 2008 for declaration and recovery of possession and for permanent injunction. The respondents filed a written statement on 17.09.2008. After framing issues, the trial was commenced. The revision petitioner was examined as PW.1 and closed her evidence. After examination of defendants, the petitioner filed I.A.No.1451 of 2015 for permitting the petitioner to let in additional evidence and also examining her further and I.A.No.1452 of 2015, recalling the petitioner for further examination. The sixth respondent filed counter affidavit stating that the petitioner has not given any reason for not filing these documents, when she was examined as PW.1 and she has not given the name of the witness, particulars of documents to be marked and therefore, prayed for dismissal of both the Interlocutory Applications. The learned Judge after considering the materials available on record dismissed both the applications. Against the said dismissal, the present revisions are filed.



4. The learned counsel for the petitioner contended that due to flood in Chennai, the petitioner could not get Power of Attorney which is sought to be proved by the revision petitioner / plaintiff is available only at Sub-Registrar Office, Mylapore, Chennai. The learned Judge erred in dismissing the applications on the ground that, this Court directed the learned Additional District Munsif, Srivilliputtur, to dispose the suit at the earliest. The petitioner's side evidence was closed only temporarily and did not properly appreciate the necessity of reopening and recalling of PW.1 and marked the documents. Only during the evidence of respondents / defendants the petitioner came to know that the respondents are marking duplicate copy. The learned counsel for the petitioner relied on the following judgments:-

(i) 2002(3) CTC 92 (P.S. Pandian Vs. Annai Velanganni Films rep. by its Partner Mrs. Savithri Devaraj and another), para 10 reads as follows:-

10. Therefore, it is suffice for the Court to find out whether the claim of a person who approaches the Court for production of the documents at a subsequent stage, lacks bona fide or suffers from mala fide. In either case, the test to be adopted is whether the documents relied upon by the party are required to meet the ends of justice.

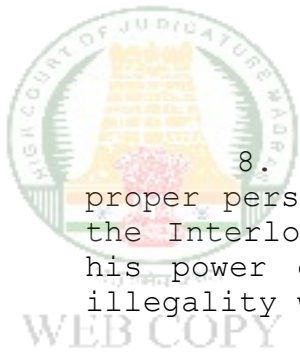
(ii) 2010(1) MLJ 893 (Mary Kamalam Vs. Duraiswamy), para 9 reads as follows:-

9 ... If circumstances warrant, an opportunity to a party to recall a witness for examining can be granted by a Court in exercise of its inherent jurisdiction under Section 151 of CPC. Hearing of arguments in a suit is not a distinct stage of the hearing contemplated by the Code of Civil Procedure and it is a part of the hearing just as such as the recording of evidence. It follows that before arguments are concluded, the party is entitled to request the Court to receive any oral or documentary evidence and it is left to the Court in exercise of its jurisdiction to grant it or not.

5. The learned counsel appearing for the sixth respondent submitted that the petitioner has not given any particulars of witness to be examined and documents to be marked. In the circumstances, the learned Judge dismissed the applications giving valid reasons and therefore, prayed for dismissal of these revisions.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. A reading of the affidavit filed in support of the petitions revealed that the petitioner has not given any valid reason for marking the documents, when the petitioner was examined as PW.1. In the written statement filed on 17.09.2008, the sixth respondent has raised objections with regard to allegations made by the petitioner. In the circumstances, the petitioner ought to have been vigilant enough in substantiating her case. The Judgment relied on by the learned counsel for the petitioner is not applicable to the facts of the present case.



8. The learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Interlocutory Applications. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

9. In the result, the Civil revision petitions are dismissed confirming the impugned order of the learned Additional District Munsif, Srivilliputur, passed in I.A.Nos.1451 and 1452 of 2015 in O.S.No.335 of 2015, dated 04.01.2016. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS)

To

The Additional District Munsif, Srivilliputur.

+2cc to M/s.N.Sundareshan, Advocate in SR.10414 & 10415

+1cc to M/s.K.Sudalaiyandi, Advocate in SR.10699

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