



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).Nos.704 and 705 of 2016 and
CMP(MD).No.3279 of 2016 in CRP(MD).No.704 of 2016 and
CMP(MD).No.3280 of 2016 in CRP(MD).No.705 of 2016

Suresh kumar : Revision Petitioner in both CRPs
Vs.

R. Renganathan : Respondent in both CRPs

Prayer: The Civil Revision Petition is filed under Section 115 of CPC against the fair and decreetal order dated 28.10.2015 made in E.A.Nos.29 and 30 of 2015 respectively in E.A.No.185 of 2011 in E.P.No.46 of 2004 on the file of Sub Court, Uthamapalayam.

For Petitioner : Mr.R.R. Kannan in both CRPs

COMMON ORDER

The Civil Revision Petitions are filed against the fair and decreetal order dated 28.10.2015 made in E.A.Nos.29 and 30 of 2015 respectively in E.A.No.185 of 2011 in E.P.No.46 of 2004 on the file of Sub Court, Uthamapalayam.

2. The revision petitioner is the third party in E.P.No.46 of 2004 filed by the respondent. The petitioner filed claim petition in E.A.No.185 of 2011. After enquiry, the said Execution Application was posted for orders. At that time, the petitioner filed E.A.Nos.29 and 30 of 2015 for reopening and recall PW.2 for marking some important documents. The respondent contended that the date of decree is 02.11.2000 and the Execution Petition filed in the year 2004. Only with a view to drag on the proceedings, the petitioner has come out present applications. The petitioner has not mentioned the details of documents to be marked. The claim petition filed by the petitioner in the year 2011. The learned Judge dismissed both the applications, by common order dated 28.10.2015. Against that common order, the present civil revision petitions are filed.

3. The learned counsel for the petitioner contended that the learned Judge did not appreciate all the facts and services rendered in proper perspective. The learned Judge ought to have seen that the petitioner has given valid reason for reopening and recall PW.2. As held by the Hon'ble Apex Court and this Court,



the learned Judge ought to have considered the application filed by the petitioner liberally. The petitioner should have been given an opportunity to prove his case on merits and should not have been shut down at threshold itself.

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. From the records, it is seen that the respondent filed suit and obtained decree on 02.11.2000 and filed E.P in the year 2004. The petitioner filed claim petition in the year 2011, evidence was let in and claim petition was posted for orders. At that stage, the petitioner filed two applications for reopening and recall PW.2. The petitioner has not given any valid reason for not marking the documents, when PW.2 was examined. The petitioner also not given any details, what are all the documents he is going to be marked. The suit is of the year 1996 and decree was passed on 02.11.2000 and the respondent filed Execution Petition in the year 2004 and the same is pending for more than 12 years. In the circumstances, the contention of the respondent that only to drag on the proceedings, the petitioner has filed these applications, is acceptable. The learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Execution Applications. Further, the learned Judge has exercised his power conferred on him in a proper perspective and there is no irregularity or illegality warranting interference by this Court.

6. In the result, the Civil revision petitions are dismissed confirming the impugned order dated 28.10.2015 made in E.A.Nos.29 and 30 of 2015 respectively in E.A.No.185 of 2011 in E.P.No.46 of 2004 on the file of Sub Court, Uthamapalayam. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To
The Subordinate Judge, Uthamapalayam.

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