

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P (PD).Nos.102 & 103 of 2014
and M.P.No.1 of 2014
in C.R.P.(PD).No.102 of 2014

N.Pungothai

... Petitioner in both C.R.Ps

Vs.

M.N.Jayaprakash

... Respondent in both C.R.Ps

Civil Revision Petitions filed under Article 227 of the Constitution of India against the order dated 06.12.2013 passed in I.A.Nos.1124 & 1125 of 2013 in O.S.No.141 of 2010 on the file of the District Munsif Court, Tambaram.

For Petitioner in both C.R.Ps : Mr.R.Vijayaraghaven

For Respondent in both C.R.Ps : Mr.R.SundaraKamesh

COMMON ORDER

These revision petitions are filed challenging the common order passed by the trial Court in I.A.Nos.1124 & 1125 of 2013 for reopening and recalling the evidence of P.W.1. The revision petitioner, who is the plaintiff in the suit in O.S.No.141 of 2010, has filed the suit for the relief of permanent injunction.

2.The learned counsel appearing for the petitioner submitted that during the cross examination of D.W.1, it was brought to his knowledge that as per the judgment made in O.S.No.548 of 1973, dated 16.12.1982, delivered by the District Munsif, Poonamallee, the vendor of the defendant has no title in the suit property. Accordingly, the defendant has no title over the suit property. This fact came to be known only during the cross examination of D.W.1 and only recently, he was able to get the said judgment passed in O.S.No.548 of 1973. This factual invention caused the revision petitioner for filing of these petitions to reopen and recall.

3.The fact remains that the cross examination of D.W.1 was completed on 13.03.2013, but the petitions were filed after eight months thereafter. The delay in filing the petition was not properly explained before the trial Court and it is pertinent to note that the arguments in the suit by both the parties were finally heard on 20.11.2013 and the learned trial Judge had reserved orders and posted the case for judgment on 29.11.2013. At this point of time, the petitions for reopening and recalling were filed and the trial Court has rightly rejected the same on the ground that the same were filed after a lapse of eight months and further, the arguments were completed and the case was posted for judgment.

4.The learned counsel appearing for the respondent opposed the contention of the learned counsel for the petitioner by stating that the petitions to reopen and recall were filed only with an intention to protract the issues and to prolong the suit, more specifically to delay the judgment to be passed by the trial Court.

5.However, this Court is of the view that such petitions filed based on the invention of new facts need not be entertained and the Courts have to find out the facts and circumstances under which such petitions are filed by the parties.

6.Accordingly, there is no infirmity in the order passed in I.A.Nos.1124 & 1125 of 2013 dated 19.12.2013 and the same is confirmed. In the result, the Civil Revision Petitions in C.R.P.(PD).Nos.102 & 103 of 2014 are dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes
Internet : Yes
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24.02.2017

To
The District Munsif Court,

Tambaram.

S.M.SUBRAMANIAM , J.

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**C.R.P (PD).Nos.102 & 103 of 2014
and M.P.No.1 of 2014
in C.R.P.(PD).No.102 of 2014**

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