

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1450 of 2017
& C.M.P.No.6749 of 2017

1.Chinthamani
2.M.Siva Kumar
3.M.Ravi
4.M.Desingu

.. Petitioners

Vs.

L.Boja Madian

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the petition and order dated 23.02.2017 in unnumbered I.A.(O.S. C.R.F.503 of 2017) in O.S.No.76 of 2008 on the file of the learned District Munsif, Ootacamund, the Nilgiris.

For Petitioners : Ms.D.Rajalakshmi

ORDER

This Civil Revision Petition has been filed against the petition and order dated 23.02.2017 in unnumbered I.A.(O.S. C.R.F.503 of

2017) in O.S.No.76 of 2008 on the file of the learned District Munsif, Ootacamund, the Nilgiris.

2. The petitioners are the defendants and the respondent is the plaintiff in O.S.No.76 of 2008. The suit is one for permanent injunction restraining the defendants, their men not to interfere with the plaintiff's peaceful possession and enjoyment of the suit schedule property. The petitioners filed written statement in the month of June 2008 and are contesting. The trial commenced and the parties were let in evidence and closed their sides evidence. Arguments were heard and the suit was posted for judgment.

3. Thereafter, the petitioners filed an application in O.S.CFR.No.503 of 2017 to permit the petitioners/defendants to reopen the suit for further examination of D.W.1. The learned Judge considering the various applications filed by the petitioners at different stages of the suit for re-opening the case and re-calling P.W.1, D.W.1 for further cross-examination to mark the documents namely, the certified copies of the plaint and written statement in O.S.No.146 of 1998, rejected the application. The learned Judge further held that again and again the petitioners have filed the

applications and the same were rejected without numbering. Aggrieved over the same, the present civil revision petition is preferred by the petitioners/defendants.

4. The learned counsel for the petitioners would submit that the learned judge ought to have allowed the application, issued notice to the other side and decided the matter on merits. The petitioners have filed the applications for reopening and recalling D.W.1 only to mark the plaint and written statement filed by the vendor of the plaintiff in the suit for partition. Only recently, the petitioners have received the said document. Therefore, the learned Judge ought to have allowed the application.

5. Heard the learned counsel for the petitioners and perused the materials available on record.

6. From the materials available on record, it is seen that the suit in O.S.No.76 of 2008 has been filed on 29.04.2008. Trial has been commenced before 2013. After oral evidence being let in by the parties, the petitioners have filed the applications for reopening and recalling P.W.1 in I.A.No.264 of 2013, D.W.1 in I.A.Nos.708 and 709 of 2016 and D.W.2 in I.A.Nos.17, 18 of 2017.

7. The petitioners have filed earlier applications even when the suit was posted for judgment. All these applications were allowed and the petitioners were given opportunity to put forth their case. In the case on hand, the petitioners have not given any valid and sufficient reasons for re-opening the case. Even the petitioners have not explained as to why they have not produced and marked those documents now sought to be marked, when the suit was posted for delivering judgment. From the various applications filed by the petitioners, it is clear that the intention of the petitioners is only to drag on the proceedings.

8. The learned judge has given cogent and valid reasons while rejecting the application. Therefore, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 23.02.2017.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.04.2017

Index : Yes
dm/kj

V.M.VELUMANI, J.

dm/kj

To

The District Munsif
Ootacamun,
Nilgiris.

C.R.P.(PD)No.1450 of 2017
& C.M.P.No.6749 of 2017

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