

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1976 & 1977 of 2017
& C.M.P.Nos.9582 & 9583 of 2017

1. M/s Ananya Shelters (P) Ltd.,
Rep.by its Managing Director,
Mr.A.Yuvaraj,
Office at No.56, Gandhi Nagar,
Goundampalayam,
Coimbatore – 641 030.

2. A.Yuvaraj

3. Uma Maheswari

.. Petitioners in
both C.R.P's

Vs.

M/s Nana Nani Homes (Phase-I)
Villa Owners Welfare Association,
Rep. by G.V.R.S. Manian,
(A Society Registered under the
Tamil Nadu Societies Registration
Act, 1975) Office at
Thondanallur, Coimbatore.

.. Respondent in
both C.R.P's

PRAYER in both C.R.P's : Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 29.04.2017 made in I.A.Nos.371 and 372 of 2017 in

O.S.No.90 of 2015 on the file of I Additional District & Sessions Court, Coimbatore.

For Petitioners in both C.R.P's	:	Mr.M.Venkadeshn
For Respondent in both C.R.P's	:	Mr.V.Kuberan for M/S.Rank Associates caveator

COMMON ORDER

The Civil Revision Petitions have been filed against the fair and decreetal order dated 29.04.2017 made in I.A.No.371 of 2017 in O.S.No.90 of 2015 on the file of I Additional District & Sessions Court, Coimbatore.

2. The petitioners are the defendants and the respondent is the plaintiff in O.S.No.90 of 2015. The respondent filed suit for declaration and mandatory injunction. The petitioners have filed written statement on 07.04.2016 and are contesting the suit. Trial commenced. Respondent was examined as PW1 and the petitioners did not cross-examine PW1. The evidence of PW1 was closed. Petitioners filed applications to reopen the case and to recall PW1.

The said applications were allowed on condition that the petitioners should cross examine PW1 in the next date of hearing. The petitioners did not cross examine the witness and the evidence of PW1 was closed. Again, the petitioners filed present applications in I.A.Nos.371 and 372 of 2017 to reopen the case, to recall PW1 and to allow his counsel to cross examine on their side in the suit.

3. The learned Judge considering the averments made in the affidavit and all the materials on record, dismissed both the applications holding that the petitioners have filed the applications only to drag on the proceedings and petitioners have not utilized the opportunity given in the earlier applications filed by them to reopen and recall PW1 when they were allowed and they did not cross-examine PW1.

4. Against the order of dismissal dated 29.04.2017 made in I.A.Nos.371 and 372 of 2017, the present civil revision petitions are filed by the petitioners.

5. Heard both sides and perused the materials available on record.

6. From the materials available on record, it is seen that the petitioners did not cross-examine PW1 and evidence of PW1 was closed. The earlier applications filed by the petitioners for reopen and recall PW1 were allowed. But the petitioners did not utilize the said opportunity to cross examine PW1. When the second time petitioners filed applications to reopen and recall, the learned Judge dismissed the applications on the ground that the intention of the petitioners is only to drag on the proceedings and grab time.

7. The learned Judge has come to the conclusion only after considering all the materials on record that though in the earlier applications filed by the petitioners, the conditional order was passed permitting the petitioners to cross examine PW1 in the next date of hearing, the petitioners did not utilize the opportunity. The learned Judge exercised his power conferred on him and rightly dismissed the applications. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 29.04.2017.

8. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.06.2017

Index : Yes/No

gsa/kj

To

I Additional District & Sessions Court
Coimbatore.

V.M.VELUMANI, J.

gsa/kj

C.R.P.(PD)Nos.1976, 1977 of 2017
& C.M.P.Nos.9582, 9583 of 2017

28.06.2017