

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NOS.2581 AND 2582 OF 2017
AND CMP NO.12293 OF 2017

Malarkodi

... Petitioner in both CRPs'

Vs.

Natarajan

... Respondent in both CRPs'

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and final order of the learned Principal District Munsif, Ariyalur, in I.A.Nos.139 of 2017 and 140 of 2017 respectively, in O.S.No.343 of 2010 dated 21.06.2017.

For Petitioner : Mr.M.R.Kuyilan

COMMON ORDER

These Civil Revision Petitions are directed against the dismissal of interlocutory applications filed for reopening and recalling the plaintiff / respondent herein for further cross examination.

2. The reason for reopening the case is to cross examine P.W.1. as well as the husband of the petitioner herein, namely Thangarasu and to mark revenue records through him. The suit was filed by the respondent / plaintiff for declaration and injunction. The suit was taken up for trial and the evidence of P.W.1 was closed. At that stage, the petitions for reopening and recalling P.W.1 were filed as certain questions were left out. In fact, the plaintiff / P.W.1 was cross examined on three days and an elaborate cross examination running to 15 pages were recorded. The attempt to recall P.W.1 to ask the questions left out is nothing but an attempt to fill up the *lacuna* and to protract the proceedings. The Trial Court, following the judgment of the Hon'ble Supreme Court reported in *AIR 2009 SC 1604* has clearly held that recalling a witness for giving further evidence regarding facts not mentioned in affidavit is not permissible. The finding of the Trial Court that the attempt of the petitioner is not *bonafide* and with an ulterior motive to fill up the *lacuna* as well as to protract the proceedings is based on sound reasons. Therefore, the petitions to reopen and recall P.W.1 for further cross examination is a futile attempt with ulterior motive. The

finding of the Trial Court is correct and therefore, the Civil Revision Petitions does not deserve any merit to be considered.

3. Accordingly, both the Civil Revision Petitions are dismissed.

No costs. Consequently, connected civil miscellaneous petition is closed.

Index
Internet
TK

: Yes/No
: Yes/No

To

The Principal District Munsif
Ariyalur.

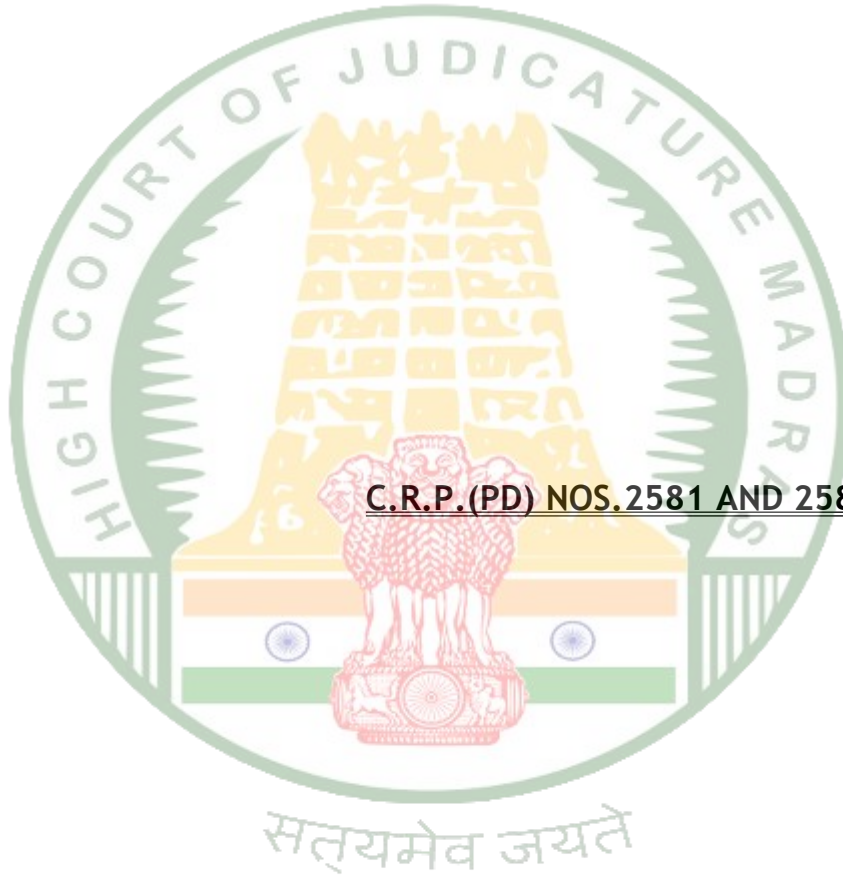
03.08.2017



WEB COPY

M.GOVINDARAJ, J.

TK



C.R.P.(PD) NOS.2581 AND 2582 OF 2017

WEB COPY

03.08.2017