

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD).No.70 of 2014
and M.P.No.1 of 2014

1.K.M.Chinnasamy

2.K.Palanisamy

3.Muthulakshmi

... Petitioners

Vs.

K.Chellappan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 18.11.2013 made in I.A.No.1460 of 2013 in O.S.No.95 of 2007 on the file of the District Munsif Court, Kangayam.

For Petitioners : Mr.M.Guruprasad

For Respondent : Mr.S.Saravanan

ORDER

The facts in nut-shell relevant to decide the present revision petition are that the suit was instituted by the respondent for declaration and injunction. During the pendency of the suit, the revision petitioners filed Interlocutory Applications in I.A.Nos.1229 & 1230 of 2013 to reopen the case

and to recall D.W.1 for the purpose of further examination. The trial Court passed an order on 07.10.2013 rejecting the same on the ground that both the parties to the suit have to substantiate their pleadings on the basis of oral and documentary evidences and accordingly, the petitions were dismissed. Subsequently, the suit was proceeded with and it was posted for arguments. At that point of time, the petitioners once again filed I.A.No.1460 of 2013 to reopen the case. The contention of the revision petitioners is that they have obtained some information regarding S.F.No.700/7 ABC sub divisions and in respect of the said information it is necessary for them to examine certain persons and for that purpose, the case has to be reopened. The trial Court has gone into the merits and demerits of the case and found that the petition is devoid of merits and the same is filed in order to protract the issue and after the case was listed for arguments and accordingly, dismissed the petition. Challenging the same, the present revision is filed.

2.Heard the learned counsel appearing for the petitioners and the respondent.

3.The learned counsel appearing for the petitioners stated that it is a case where reopening of the case is necessary in view of the new facts and

circumstances to be established in the suit. Further, he has stated the Tahsildar has to be examined as witness and for that purpose, the case has to be reopened.

4. Though the learned counsel appearing for the petitioners submitted that the Tahsildar has to be examined, no pleadings to that effect was available before the trial Court. On the contrary, before the trial Court, a vague statement was made that some persons are to be examined. Mere vague pleadings cannot be considered for the purpose of reopening the case. In the absence of any specific averment that a particular person is to be examined, the Court cannot consider reopening the case, more specifically when the suit itself is posted for arguments. An inference has to be drawn that the petition is filed to protract the issue and to prolong the suit. The conduct of the parties in filing the petition also is to be considered, especially, when the petition is filed to reopen the evidence. In the event of allowing the application to reopen the case, it will create unnecessary complications and confusions in deciding the case based on the documents and oral evidence placed before the Court. Such being the position, this Court is not inclined to consider the petition for reopening.

5. Accordingly, the fair and decreetal order passed in I.A.No.1460 of

2013 in O.S.No.95 of 2007 dated 18.11.2013 is confirmed and the Civil Revision Petition in C.R.P.(PD).No.70 of 2014 is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes
va

23.02.2017

To

1.The District Munsif Court,
Kangayam

S.M.SUBRAMANIAM,J.

va

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and M.P.No.1 of 2014**

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