

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD) Nos.3497 of 2016 and 4072 of 2016
and C.M.P.Nos.17794 and 20566 of 2016

K.Parameswari .. Petitioner in both C.R.Ps

Versus

1. P.Selvi
2. Perumal
3. Vicky @ Ganesh .. Respondents in both C.R.Ps

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the order and decretal order dated 16.11.2015 passed in I.A.No.1730 of 2015 and I.A.No.1729 of 2015 in O.S.No.676 of 2014 on the file of the District Munsif, Chengalpattu, Kancheepuram District.

For Petitioner in both C.R.Ps :Mr.J.Selvarajan
For Respondents in both C.R.Ps :Mr.C.Venkatesan

COMMON ORDER

The plaintiff has filed these Civil Revision Petitions against the orders refusing to reopen and recall D.W.1 for cross examination by the plaintiff.

2. The reason given by the petitioners is that due to her illness, she was admitted in the hospital and therefore, she could not instruct her counsel for cross examining D.W.1. Hence, the evidence of D.W.1 was closed and the matter was posted for arguments. At this stage, the applications to reopen and recall were filed.

3. Admittedly, the petitioner is the mother of the first defendant and she is 80 years old. It is stated that because of her ill health, she could not give instructions promptly to the counsel. The applications were dismissed by the trial Court. Earlier also, the evidence of D.W.1 was closed without cross examination of D.W.1. Similar applications were filed by the defendants to reopen and recall, which were allowed on payment of costs. However, the plaintiff did not make use of the opportunity and again allow the evidence of D.W.1 to close. However, considering the grievance of the plaintiff, who has filed the suit for declaratory and possessory title and considering the age of the plaintiff, this Court is inclined to set aside the orders dated 16.11.2015 passed by the trial Court in I.A.Nos.1729 of 2015 and 1730 of 2015, however on terms. Accordingly, the plaintiff is directed to pay a sum of

Rs.5,000/- (Rupees five thousand only) as costs to the respondents within a period of two weeks from the date of receipt of copy of this order. On payment of the said amount, the plaintiff will be permitted to cross examine D.W.1. It is clearly stated that the plaintiff has to cross examine D.W.1 on the date fixed and cannot take advantage of re-opening of the case. The learned counsel for the petitioner also submitted that he will not take more than a day to complete the cross examination. However, considering the age of the plaintiff, the cross examination has to be completed in three days time.

4. With the above direction, the Civil Revision Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

srn

11.01.2017

To

The District Munsif, Chengalpattu,
Kancheepuram District.

PUSHPA SATHYANARAYANA.J

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