

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.3511 and 3513 of 2016
& C.M.P.No.17850 of 2016

D.S.Velayutham

.. Petitioner in
both CRPs.

Vs.

1.R.Ramalakshmi

2.R.Mohana

3.The Commissioner
Corporation of Madras
Madras-600 003.

4.The Member and Secretary
Chennai Metropolitan Developmental Authority
Egmore, Chennai-600 008.

5.The Thasildar
Egmore-Nungambakkam Taluk
Sput Tank road, Chetpet
Chennai-600 031.

.. Respondents in
both CRPs.

(Notice to the respondents 3 and 4 may be
dispensed with, due to they were set exparte
in the trial Court and also formal parties)

PRAYER: Civil Revision Petitions filed under Article 227 of the
Constitution of India, against the fair and decreetal order dated
09.09.2016 made in I.A.Nos.8032 of 2016 and 9606 of 2014 in

O.S.No.1750 of 2007 on the file of the II Assistant City Civil Court, Chennai.

For Petitioner	: Mr.R.Marudhachalamurthy
For RR1 and 2	: Mrs.Sujatha Rangarajan
R3 and R4	: Exparte
For R5	: Mr.M.Venugopal Spl.G.P.

COMMON ORDER

The Civil Revision Petitions have been filed against the fair and decretal order dated 09.09.2016 made in I.A.Nos.8032 of 2016 and 9606 of 2014 in O.S.No.1750 of 2007 on the file of the II Assistant City Civil Court, Chennai.

2. The petitioner is the first defendant, respondents 1 and 2 are the plaintiffs, respondents 3 to 5 are the defendants 2 to 4 in O.S.No.1750 of 2007 on the file of the II Assistant City Civil Court, Chennai. The respondents filed the suit for mandatory injunction directing the respondents 3 to 5 not to give permission to demolish or put up any constructions in the suit schedule property and to alter the revenue records of the suit schedule property and consequential permanent injunction. The petitioner filed written statement on 12.07.2007 and is contesting the suit.

3. In the suit, number of applications were filed and disposed of. The petitioner was examined as D.W.1 and subsequently, his evidence was restored. Wife of the petitioner was examined as D.W.2. She was cross examined and at the time of her cross examination, the petitioner filed a memo stating that D.W.2 was subjected to unnecessary and unwanted cross examination, which are not relevant to the case and she was unnecessarily harassed by the counsel for respondents 1 and 2. Subsequently, the suit was posted for further cross examination of D.W.2. At that time, respondents 1 and 2 and their counsel were not present to cross examine D.W.2. Defendants' side evidence was closed. Subsequently, respondents 1 and 2 filed the present applications in I.A.Nos.9606 of 2014 and 8032 of 2016 to reopen and recall the evidence of D.W.2.

4. The petitioner filed counter affidavit and opposed the averments made in both the applications.

5. The learned Judge considering the averments made in the affidavits, counter affidavit and materials available on record, allowed the applications in order to give one more opportunity to the respondents 1 and 2 in the interest of justice.

6. Against the order dated 09.09.2016 made in I.A.Nos.9606 of 2014 and 8032 of 2016, the present civil revision petitions are filed by the petitioner/first defendant.

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

8. The grievance of the petitioner is that D.W.2 is unnecessarily harassed by the counsel for the respondents 1 and 2 during her cross examination and in spite, ample opportunity was given to the first respondent to examine D.W.2, he did not utilise the same.

9. According to the learned counsel for the petitioner, D.W.2 will appear before the trial Court on the next date of hearing.

10. Considering these contentions and impugned order of the learned Judge, where the learned Judge has held in the interest of justice, respondents 1 and 2 must be given an opportunity to cross examine D.W.2, without deciding the issue on merits, I direct D.W.2 to be present for cross examination on the next date of hearing and

respondents 1 and 2 are directed to cross examine D.W.2 on the same day and complete the cross examination without seeking any adjournment. If the respondents 1 and 2 seek adjournment for cross examination of D.W.2 or first respondent fails to complete the cross examination on the same day, the learned Judge is directed to close the evidence of D.W.2 and post the suit for further proceedings. If D.W.2 is not present for further cross examination, the learned Judge is directed to eschew the evidence of D.W.2.

11. With the above direction, the Civil Revision Petitions are disposed of. As the suit is of the year 2007, II Assistant City Civil Court, Chennai, is directed to dispose the same as expeditiously as possible, in any event, not later than, three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

23.06.2017

Index : Yes/No

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To

II Assistant City Civil Court, Chennai.

V.M.VELUMANI, J.

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