



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD)No.740 of 2017

and

CMP(MD)No.3395 of 2017

The Idol of Sri Navaneetha Krishnan Kovil

Rep by its Trustee

Srinivasan

S/o.Tevaraya Konar,

Eda Street, Palakkarai,

Trichy-8.

... Petitioner/1<sup>st</sup> Respondent/1<sup>st</sup> Plaintiff

vs.

1)The Commissioner,  
Tiruchirappalli City Corporation,  
Cantonment,  
Tiruchirappalli.

2)K.Venkatachalam

... Respondents

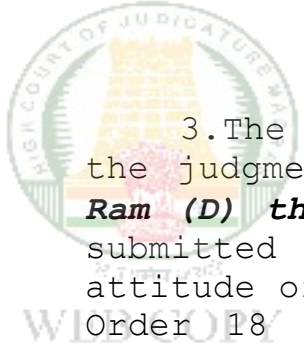
Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.109 of 2017 in O.S.No.673 of 2012 dated 15.02.2017 on the file of the Principal District Munsif Court, Tiruchirappalli.

For Petitioner : Mr.Meenakshi Sundaram, Senior Counsel  
for Mr.N.Ga.Natraj

ORDER

This revision petition is filed by the 1<sup>st</sup> plaintiff, aggrieved by the order passed by the Trial Court allowing the application filed to re-call DW1.

2.The contention of the revision petitioner is that the application under Order 18 Rule 17 to recall DW1, was filed on the ground that it is necessary to recall the witness to adduce evidence by marking co-relation certificate which was failed to be marked due to inadvertence. This application was allowed by the Trial Court on the ground that in order to give quietus to the litigation, it is necessary to entertain the application.



3. The learned counsel for the revision petitioner referring the judgment of the Hon'ble Supreme Court in **Ram Rati vs. Mange Ram (D) through Lrs. & others**, reported in **2016 SAR (Civil) 511**, submitted that the Apex Court has heavily commented upon the attitude of the Courts below in entertaining the application under Order 18 Rule 17, at the instance of the parties for further elaboration on the left out points, which is wholly impermissible in law.

4. In the judgment cited above by the learned counsel for the revision petitioner, the Apex Court has considered the various judgments of the Supreme Court and has culled out the circumstances under which, application under Order 18 Rule 17 can be entertained. One such principle as summarised by the Hon'ble Supreme Court is that while trying a suit, to clarify any doubts which it may have with regard to evidence led by the parties, application under Order 18 Rule 17 can be entertained and such power can be exercised very sparingly in appropriate case and not as a general rule merely for asking.

5. Perusal of the affidavit filed in support of the interlocutory application, counter and the impugned order reveals that in the suit filed by the revision petitioner against the 1<sup>st</sup> respondent herein, he has sought a relief of permanent injunction restraining the 1<sup>st</sup> respondent from interfering with their peaceful possession of enjoying the property. A detailed written statement has been filed by the defendant, stating that the subject property does not fall within the exclusive possession of the plaintiffs and therefore, the suit has to be dismissed with exemplary cost. In order to substantiate their plea, the Commissioner of Corporation/defendant have examined one witness so far. Later, they have found that they have omitted to file the co-relation certificate which will help the Court to identify the exact location of the property in dispute.

6. This Court is unable to understand why the 1<sup>st</sup> plaintiff/revision petitioner is so anxious to prevent the defendant from establishing the exact location of the property, by filing co-relation certificate and other documents related to it. The attempt to recall the witness and mark the document relating to the survey numbers of the disputed property, is going to help the Court to arrive at a right conclusion. If such an attempt is prevented, there is every possibility of mis-carriage of justice. Therefore, this Court finds no error in the order passed by the Trial Court.

Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Co)



To

1. The Principal District Munsif Court,  
Tiruchirappalli.

2. The Commissioner,  
Tiruchirappalli City Corporation,  
Cantonment,  
Tiruchirappalli.

+1 CC TO MR.N.GA.NATRAJ, ADVOCATE, SR NO.51263

nbi

MAS/MR:19.04.2017:3P-4C

CRP (PD) (MD) No.740 of 2017  
10.04.2017