



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P(MD)Nos.843 and 844 of 2017(PD)

and

C.M.P. (MD) .No.3775 of 2017

A.Selvaraj .. Petitioner/Petitioner/Plaintiff
in both petitions
Vs.

Selvarani @ Shakilabanu .. Respondent/Respondent/Defendant
in both petitions

Common Prayer: These Civil Revision Petitions are filed under Article 227 of Constitution of India, to set-aside the fair and decreetal order in I.A.Nos.776 and 777 of 2016 in O.S.No.138 of 2014 on the file of the District Munsif Court, Ramanathapuram.

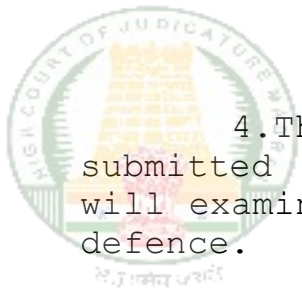
For Petitioner : Mr.J.Madhu
in both petitions
For Respondent : Mr.A.Nagarajan
in both petitions

COMMON ORDER

These Civil Revision Petitions are directed against the dismissal of the I.A.Nos. 776 and 777 of 2016 in O.S.No.138 of 2014 on the file of the District Munsif Court, Ramanathapuram, which was filed to reopen and recall DW1.

2. Heard both sides and perused the materials placed before this Court.

3.The Trial Court after considering the request of the revision petitioner/Plaintiff dismissed the applications holding that only to drag on the proceedings, the applications are filed to reopen and recall DW1. Aggrieved by the said order, the plaintiff has filed these present revision petitions on the ground that the learned District Munsif, Ramanathapuram failed to note that the respondent suppressed the fact of pendency of second appeal and entered into a sale agreement. Therefore, the sale agreement dated 07.11.2016 has to be marked by confronting the same with DW1.



4. The learned counsel appearing for the revision petitioner submitted that even if one opportunity is given the petitioner will examine the witness on the very same day and substantiate his defence.

5. Per contra the learned counsel appearing for the respondents submitted that the suit is of the year 2014 filed for bare injunction and the documents are sought to be marked when the matter is adjourned for argument. They are malicious and malafide applications to protract the proceedings and to continue the enjoyment of the interim order granted in favour of the revision petitioner.

6. It is submitted by the learned counsel for the respondent that the application filed to reopen and recall was bereft of facts. Even without mentioning the date of sale deed and the parties to the sale deed, the revision petitioners seek reopen of the trial. Further, the sale deed has no bearing to the facts of alleged breach of interim order. The Trial Court has rightly held that even if there is any violation or breach of interim order of injunction, the remedy is to invoke Order 39 Rule 2(A) of C.P.C., and not to reopen the case, which has already been concluded and posted for arguments. When this Court posed a question to the learned counsel for the revision petitioner about the relevancy of the sale deed dated 07.11.2016 to the relief of bare injunction, the learned counsel is not in a position to explain and sustain the reason to introduce the said sale deed.

7. Considering the nature of the relief sought for in the main suit and the documents sought to be introduced by way of reopening and recalling DW1 at the fag end of the trial, when the matter is posted for arguments, this Court is of the opinion that the intention of the revision petitioner is not to complete the trial or substantiate his case but only to protract the proceedings. Hence this Court finds no merits in these revision petitions. Hence, these Civil Revision Petitions are dismissed. No Costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Ramanathapuram.

+1cc to Mr.J.MADHU Advocate in SR. No.53345

PJI

<https://hcservices.ecourts.gov.in/hcservices/>

JS/RSK/4.05.2017/2P-3C

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