



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)Nos.2319 & 2320 of 2016 (PD)

and

C.M.P(MD)No.10704 of 2016

Varalakshmi

....Petitioner/Petitioner/Plaintiff
in both C.R.Ps.
Vs.

- 1.Murugan
- 2.Ganesan
- 3.Narayanan @ Maharajan
- 4.Durairaj(died)
- 5.Kalyani
- 6.Pathrakaliammal
- 7.Rajammal
- 8.Dhanusulingam
- 9.Poomari
- 10.Ragunath
- 11.Annakili
- 12.Muthukumar
- 13.Ramachandran
- 14.Ramesh
- 15.Manimuthu
- 16.Muthulakshmi

....Respondents/Respondents/Defendants
in both C.R.Ps.

(Respondents 5 to 16 as Exparte order in I.A.Nos.430&431/2016 in O.S.No.217/2009)

PRAYER in both C.R.Ps.: Civil Revision Petitions are filed, under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.Nos.430 and 431 of 2016, in O.S.No.219/2009 and O.S.No.217/2009 dated 13.07.2016 on the file of District Munsif, Srivaikuntam allow this Civil Revision Petition.

For Petitioner
in both C.R.Ps.

: Mr.V.Selva

For R1 to R3
in both C.R.Ps.

: Mr.B.Rajesh Saravanan

For R4

: died

For R5 to R16

: Exparte

**COMMON ORDER**

The issue involved in both the CRPs are interlinked and hence, both CRPs are disposed of by common order.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit in O.S.No.217 of 2009 before the District Munsif, Srivaikundram for declaration and injunction. The respondents filed written statement and are contesting the suit. Trial commenced. The petitioner side evidence was closed. D.W.1 was examined in part on 29.04.2016. It was posted for D.W.1's further cross on 03.06.2016. On the date, he was not present, therefore, his evidence was closed. On 10.06.2016 the petitioner filed two applications in I.A.Nos.374 and 375 of 2016 to re-open the case and recall D.W.1. Both applications were allowed on 17.06.2016 and suit was posted to 21.06.2016 for cross-examination of D.W.1 by the petitioner. On 21.06.2016 and 27.06.2016 D.W.1 was present but petitioner was not ready to cross-examine D.W.1. Therefore, defendant side evidence was closed. The petitioner filed two applications in I.A.Nos.430 and 431 of 2016 to re-open the case and recall D.W.1. On the date of hearing, the petitioner was absent.

3. The respondents filed counter affidavit and denied the averments made in the petitions.

4. The learned Judge considering the earlier order passed in I.A.Nos.374 and 375 of 2016 and absent of the petitioner, dismissed both applications holding that petitioner has filed applications only to drag on the proceedings.

5. Against the said order of dismissal in I.A.Nos.430 and 431 of 2016, dated 13.07.2016, the petitioner has come out with these civil revision petitions.

6. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused all the materials available on record.

7. From the records, it is seen that the evidence of D.W.1 was closed on 03.06.2016 as he was not present to be cross-examined by the petitioner. An application filed by the petitioner again was re-opened and D.W.1 was recalled. D.W.1 was Present for cross-examination. The petitioner was not present and did not cross-examine the D.W.1 and therefore, evidence of D.W.1 was again closed. The petitioner filed present two applications to re-open the case and recall the D.W.1 but was not present before the Court on the date of hearing. The petitioner was not diligent enough to prosecute the applications and applications were dismissed by the learned Judge on the ground that intention of the petitioner is only to drag on the proceedings.



8. From the above facts, it is clear that the petitioner is not diligent enough and has not taken proper steps to prosecute the suit filed by him. The petitioner has not utilized the opportunity to cross-examine the D.W.1 and did not appear when the present applications were taken up for hearing. In the circumstances, there is no illegality or irregularity warranting interference by this Court.

9. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

10. The suit is of the year, 2009. The learned District Munsif, Srivaikundam is directed to dispose the suit in O.S.No.217 of 2009, as expeditiously as possible, in any event, not later than 30th June 2017.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Srivaikuntam.

+1cc to M/s. D.SENTHIL Advocate in SR. No.12112
+1cc to M/s. B.RAJESH SARAVANAN Advocate in SR. No.11437
AM
JS/KP/SAR.4/6/04/2017/3P-4C

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