

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).Nos.1341 & 1342 of 2018 and

C.M.P.No.7004 of 2018

Saraswarthi

... Petitioner in both CRPs

Vs.

Kathirvel

... Respondent in both CRPs

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal dated 14.02.2018 made in I.A.Nos.1071 & 1072 of 2017 in O.S.Nos.288 of 2010 on the file of the Subordinate Judge, Tiruchengode, by allowing these Civil Revision Petitions.

For Petitioner : Mr.Marudhachalamurthy
in both CRPs

ORDER

The relief sought for in this revision is to set aside the fair and decreetal dated 14.02.2018 made in I.A.Nos.1071 & 1072 of 2017 in O.S.Nos.288 of 2010 on the file of the Subordinate Judge, Tiruchengode.

2. The Revision petitioner is a plaintiff in O.S.No.288 of 2010 and respondent in I.A.No.1071 of 2017. The Revision petitioner has filed the suit against the respondent in O.S.No.288 of 2010 on the file of Subordinate Judge, Trichengode.

3. The revision petitioner had filed a suit against the respondent for partition and permanent injunction. The respondent/4th defendant filed an Interlocutory application before the Trial Court in I.A.No.1072 of 2017 in O.S.No.288 of 2018 under Order XVIII Rule 17 and Section 151 of CPC to recall the evidence of DW6 for the purpose of making additional document and filing additional proof affidavit.

4. After hearing the arguments of both sides, the trial Court allowed the application on the ground that the documents proposed to be marked are necessary to decide the case on merits and the petitioners herein does not have serious objection except the respondent herein has filed that application to drag on the proceedings.

5. Aggrieved against the said order dated 14.02.2018, the Revision petitioner is before this Court with the present civil revision petition.

6. Heard learned counsel for the petitioner and perused the documents available on record.

7. The only contention raised by the revision petitioner is that the respondent has not stated anything about relevancy of the document and the purpose for which the case has to be reopened. The trial Court without considering the fact that no proper reason was given in the affidavit by stating that objection of the other side only with intention to drag on the proceedings which cause prejudice to the petitioner herein.

8. On a perusal of the application, it is noted that when the suit was posted for arguments, at that time, the respondent filed application for reopening the case as to recall of DW1 for marking certain documents. The learned counsel for the revision petitioner would contend that the respondent has not indicated anything in his affidavit and petition that what are all the documents have to file on his side and what way they are relevant to substantiate his case and why they were not produced earlier before completing the trial.

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9. It is no doubt as pointed out by the learned counsel for the petitioner herein, the respondent has not stated any details as indicated by the counsel for the petitioner. Since the suit is for partition, if the witness was recalled no prejudice would be caused to the petitioner and however he will be given

opportunity to cross examine the witness. Under the above said circumstances, in the interest of justice in order to give opportunity to the respondent to put forth his case, this Court need not interfere with the order passed by the trial Court.

10. However, the main case itself has come to the end of the argument stage, therefore the trial Court is directed to dispose the case, in accordance with law, within a period of three months from the date of receipt of a copy of this order after completing/complying all the legal formalities.

11. With the above direction, the revision petitions are dismissed. Consequently, the connected Miscellaneous petition is closed. No costs.

Index:Yes/No

Speaking order / Non speaking order

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11.04.2018

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To

The Subordinate Judge,
Tiruchengode



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P.VELMURUGAN, J.,

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& C.M.P.No.7004 of 2018

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