

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.532 of 2018
and CMP.No.2800 of 2018

P.Muthusamy

.. Petitioner

Vs

Arunachalam (died)

1.A.Balasubramaniam

2.A.Paramasivam

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Tirupur,

4.The Tahsildar,
Taluk Office,
Tiruppur.

.. Respondents

PRAYER

Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order dated 03.01.2018 made in Tr.OP.No.83 of 2017 on the file of the Principal District Court, Tirupur against OS.No.224 of 2009 on the file of the District Munsif Court, Tirupur.

For Petitioner

: Mr.R.Krishnamurthy

ORDER

According to the revision petitioner, the respondents 1 and

2 have filed a suit in OS.No.224 of 2009 before the District Munsif Court, Tirupur against the petitioner and the third and fourth respondents. In the aforesaid suit, the revision petitioner has also filed an application in IA.No.565 of 2017, which was dismissed on 11.07.2017 without considering the merits of the application. The revision petitioner filed copy application No.3633 of 2017 dated 12.07.2017 for seeking fair and final order passed in the above application for the purpose of preferring a Civil Revision Petition. On 13.07.2017, acting in an arbitrary manner, the learned District Munsif, Tiruppur did not call the bundle in the calling hours and after that, the counsel represented to District Munsif that bundle was not called, further, the counsel also filed a petition under Section 151 of the Civil Procedure Code to stay further proceedings of the suit for the purpose of preferring a Civil Revision Petition against the impugned order passed in the aforesaid IA.No.565 of 2017. The revision petitioner got shocked and surprised to notice that the revision petitioner was called absent and posted for arguments on 17.07.2017. According to the revision petitioner, he was not given a fair opportunity in the aforesaid suit. Therefore, the revision petitioner filed a petition in Transfer OP.No.83 of 2017 before the Principal District Munsif, Tirupur. After hearing the parties concerned, the same was dismissed. Challenging the aforesaid order, the revision petitioner has filed the present Civil

Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the revision petitioner has made allegations against the learned District Munsif, Tiruppur that without giving an opportunity, the said application was dismissed and posted for arguments with endorsement no further adjournments. This shows that the court below has acted in a biased manner. Therefore, the revision petitioner has filed the instant petition, which was erroneously dismissed by the Principal District Court, Tiruppur. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. On perusal of the affidavit filed by the revision petitioner and the materials available on record, it is seen that the aforesaid suit was filed in the year 2009. The first defendant / the revision petitioner filed written statement on 17.09.2009. Subsequently, the aforesaid suit was posted for trial on 30.03.2015. The suit was adjourned and posted for cross examination of revision petitioner by DW1 on 15.07.2015. The revision petitioner did not choose to cross examine PW1 and thereafter filed an application to cross examination PW1 on 04.09.2015. After concluding the evidence of plaintiff, the learned District Munsif had posted for examination of defendant side on several occasions nearly 23 times from 23.01.2016 to 21.12.2016. Only on

21.12.2016, the revision petitioner filed proof affidavit. Thereafter, the defendants' side evidence was closed on 14.03.2017 and posted for arguments on 22.03.2017. On 24.03.2017, the plaintiffs filed written arguments. The revision petitioner / first defendant failed to argue even after several adjournments, but, on 17.4.2017, the revision petitioner filed reopen petition and the same was numbered as IA.No.565 of 2017, which was dismissed. Pursuant to that, the revision petitioner has filed the instant transfer petition. The Principal District Judge has sought for details from the learned District Munsif, after obtaining the report, considering the allegations and the report, the learned Principal District Judge dismissed the application, by holding, that the revision petitioner has not placed any materials to prove the transfer of suit. The court below also observed that the revision petitioner has filed a Civil Revision Petition in CRP.PD.No.3032 of 2017 challenging the order passed in IA.No.565 of 2017, by order dated 28.08.2017, this Court has dismissed the same. Therefore, when the petitioner has already challenged the order in IA.No.565 of 2017 before the High Court and the same was also dismissed, the revision petitioner has preferred the present Civil Revision Petition before this Court without placing any substantial materials for justifying his allegations against the Presiding Officer. Particularly, the revision petitioner has not disclosed the fact that the earlier Civil

Revision Petition was dismissed by this Court either in memorandum of grounds or in the typed set of papers filed in the present Civil Revision Petition filed in a casual manner, without any materials to prove his allegation. Therefore, this Court is not inclined to interfere with the orders passed by the court below. There is no error or illegality in the order passed by the court below in the Transfer Original Petition.

4. In fine, the Civil Revision Petition fails and accordingly, the same is dismissed with cost of Rs.1,000/- (Rupees One Thousand only) payable to the Tamil Nadu Mediation and Conciliation Centre, High Court of Madras, Chennai within a period of four weeks from today. Consequently, the connected miscellaneous petition is closed.

16.02.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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WEB COPY

D. KRISHNAKUMAR J.,

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To

1. The Principal District Court,
Tirupur
2. The District Munsif Court,
Tirupur



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