

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2018

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Civil Revision Petition (PD) Nos.802 & 803 of 2018
and
C.M.P.Nos.4447 & 4448 of 2018

1.B.Manivannan
2.B.Dasarathan

... Petitioners in both CRPs.

..Vs..

1.E.Ramarathinam
2.S.Sornam
3.M.S.Vijayakumar
4.S.Balakrishnan
5.S.Raja Sivaraman
6.M.S.Meenakshi
7.R.Pandimadevei
8.S.Visalakshi
9.D.Manimegalai

... Respondents in both CRPs.

Prayer: This Civil Revision Petition has been filed under Article 227 of Constitution of India, against the fair and decretal order dated 08.01.2018 in I.A.Nos.14476 & 14477 of 2017 respectively in O.S.No.2852 of 2010 on the file of the VI Assistant City Civil Court, Chennai.

For petitioners : Mr.T.D.K.Govindarajan

ORDER

Challenging the fair and decretal order dated 08.01.2018 in I.A.Nos.14476

& 14477 of 2017 respectively in O.S.No.2852 of 2010 on the file of the VI Assistant City Civil Judge, Chennai., the present Civil Revision Petitions have been filed.

2. The petitioners/plaintiffs have filed a suit in O.S.No.2852 of 2010, on the file of the VI Assistant City Civil Judge, Chennai praying for declaration and permanent injunction. In the aforesaid suit, written statement has been filed and issues were framed. Thereafter, on behalf of the petitioners/plaintiffs, the second plaintiff was examined as PW1 and Ex.A1 to A10 were marked. The defendants were also cross-examined in detail and the Plaintiffs' side evidence was also closed. Thereafter, the respondents/defendants have filed an application to reject the plaint and it was also dismissed by the trial Court. After dismissal of such application, on behalf of the defendants, DW1 was examined through whom Exs. B1 to B5 were marked. DW1 was also cross-examined on behalf of the plaintiffs. It appears that DW1, during the course of his deposition, has stated that he had put up the building in the suit property after obtaining building approval from the Corporation authorities, however, such building approval could not be traced and it was lost. The examination of DW1 was also closed on 01.09.2017 and the suit was posted for further examination of defendants side witness, if any, on 01.09.2017, 12.09.2017, 20.09.2017. On 20.09.2017, the trial court closed the evidence on the side of defendants and

posted the suit for arguments on 04.10.2017. At this stage, the Plaintiffs have filed I.A. No. 14476 of 2017 to re-open the plaintiffs' side evidence for examining the officials of the Corporation of Greater Chennai. The plaintiffs also filed I.A. No. 14476 of 2017 seeking to issue supena to the officials of the Corporation. These applications were resisted by the defendants contending that the present applications have been filed to drag on the suit. The court below, after considering the material evidence placed on record, dismissed both the applications against which the present Civil Revision Petition is filed.

3. Heard the counsel for both sides and perused the materials placed on record. The instant applications have been filed by the petitioners by contending that DW1, in the course of his deposition, has falsely stated that he has obtained building planning permission to put up the construction in the property and to disprove the same, it is necessary for the plaintiffs to summon the officials of the Corporation and to examine the official witness. At the outset, the plaintiffs were given several opportunities to examine the witnesses on their side. The suit was filed in the year 2010 for a declaration and consequential injunction. The opportunities given to the plaintiffs were not utilised by the plaintiffs to examine the witnesses on their side at the earliest point of time. When the suit was posted for argument, the present application has been filed by the plaintiffs, as an after-thought. Even as rightly pointed out by the court below, the suit was

filed in the year 2010 for declaring the sale deeds registered in the year 1990 and 1994 respectively as null and void. In any event, the plaintiffs were not diligent enough in prosecuting their case to examine the officials of the Corporation at the earliest point of time. Even otherwise, the plaintiffs who have filed the suit for declaration and consequential injunction, have to prove their own case on the basis of material documents available with them for which examination of the official of the Corporation, purportedly to disprove the statement of DW1 with respect to obtaining building planning permission, is not necessary. The court below has rightly dealt with the aforesaid aspects and this Court do not find any reason to interfere with the same.

4. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.03.2018

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Note : Issue order copy on 03.05.2018

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To

VI Assistant City Civil Court,
Chennai

D.KRISHNAKUMAR, J.,
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