



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2018

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD) No.182 of 2018

1.R.Karpaganaban
2.A.Saroja
3.J.Kasthuri

... Petitioners / Petitioners /
Plaintiffs 2, 5 & 6

vs.

1.Praba Appasamy
2.Kousalya Appasamy
3.Chandra Soanes
4.Sita Panickar
5.A.V.Viswanathan
6.A.V.Seetharaman
7.A.V.Balakrishnan
8.G.Munisamy Naidu
9.R.Krishnamoorthy
10.Vijayan Soanes
11.Praba Appasamy
12.Ethiraj Ammal
13.B.Navaneetham
14.J.Chandra
15.D.Menaka
16.S.Athilakshmi
17.M.Janakiraman
18.K.Kalavathi
19.P.Nanthagopal
20.B.Ganesan

...Respondents / Respondents /
Defendants 4 to 23

[Respondents 2, 3, 5 to 9, 11 to 20 are given up]

PRAYER: Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 24.10.2017 passed in Tr.O.P.No.79 of 2017 by the Principal District Judge, Dindigul.

For Petitioners : Mr.M.Velmurugan

For Respondents : Mr.I.Sam Jegan
(for Caveators/Respondents 1, 4 & 10)

**ORDER**

This Civil Revision Petition has been filed against the fair and decreetal order passed by the learned Principal District Judge, Dindigul in Tr.O.P.No.79 of 2017 dated 24.10.2017.

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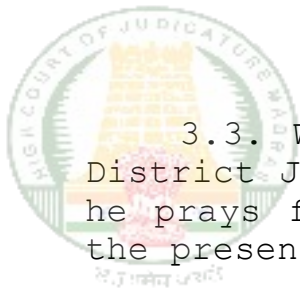
2. The facts of the case, as averred in the affidavit, are as follows:

2.1. The petitioners herein, along with some others, as plaintiffs, have filed the suit in O.S.No.17 of 1992 before the District Munsif cum Judicial Magistrate, Kodaikanal for redemption of mortgage. During the course of the proceedings, some of the plaintiffs were transposed as defendants. It is the case of the petitioners that despite their objections, the trial Court has closed the evidence of D.W.2., based on the memo filed by the defendants, which made the petitioners to think that the learned District Munsif cum Judicial Magistrate, Kodaikanal is biased on behalf of the defendants and therefore, the petitioners have preferred a transfer petition in Tr.O.P.No.79 of 2017, before the learned Principal District Judge, Dindigul, seeking to transfer the said suit from the District Munsif cum Judicial Magistrate Court, Kodaikanal to any other District Munsif Court, Dindigul District. After hearing both the parties, the learned Principal District Judge, Dinidigul has dismissed the transfer petition with costs. Aggrieved over the same, the present revision came to be filed.

3. The sum and substance of the arguments put forth by the learned Counsel for the petitioners are as follows:

3.1. The learned Counsel for the petitioners would submit that once D.W.2 was examined in chief and documents were marked, it is the duty of the Court below to give sufficient opportunity to the opposite side to cross examine the said witness. But, based on the memo filed by the defendants, despite the fact that the petitioners were ready for cross examination, the lower Court has erroneously closed the said evidence, which triggered the petitioners to think that the learned Judge is biased in favour of the defendants.

3.2. Moreover, the Kodaikanal Bar Association passed a resolution dated 06.07.2017, against one I.Sam Jegan and his wife S.Jesintha, Advocates, who are appearing on behalf of the respondents, that the learned District Munsif, Kodaikanal is acting in favour of the said Advocates and the cases in which the said Advocates are appearing should be transferred to some other Courts.



3.3. Without appreciating these facts, the learned Principal District Judge has erroneously dismissed their plea and therefore, he prays for setting aside the impugned order, thereby, to allow the present civil revision petition.

4. The arguments put forth by the learned Counsel for the respondents are as follows:

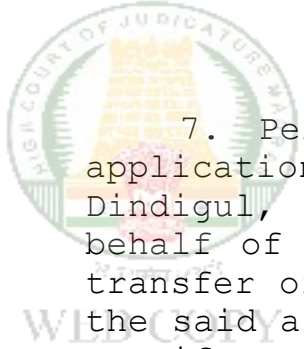
4.1. The learned Counsel for the respondents, on the other hand, narrating the events that took place before the lower Court, would strongly refute the contentions of the learned Counsel for the petitioners. He would submit that this Court, in two occasions, viz., C.R.P.(MD)No.1152 of 2014 dated 17.06.2014 and C.R.P.(MD)No.760 of 2016 dated 12.01.2017, has directed the trial Court to dispose of the suit within a period of three months. In order to defeat the said direction of this Court, the petitioners are filing petition after petition, thereby, they are prolonging the issue.

4.2. He would further submit that the petitioners and DW2, before the lower Court, were playing hide and seek. When DW2 was available, the petitioners did not cross examine DW2. At the time of closure of the said evidence, the petitioners had showed objections. Moreover, the petitioners herein/plaintiffs as well as some of the defendants, who were transposed from plaintiffs, were colluding with each other and they had successfully protracted the proceedings for the past 25 years.

4.3. With regard to the allegation levelled against the learned Judge by the petitioners, the learned Counsel for the respondents would strongly contend that the same is false, obnoxious, loathing and intolerable. He would further submit that there are no merits in the said transfer petition, which was rightly considered by the learned Principal District Judge, who, in turn, has dismissed the transfer petition. In order to drag on the proceedings further, the petitioners, having exhausted all the attempts, have filed the present revision and therefore, the learned Counsel for the respondents prays to dismiss the present revision.

5. Heard the learned Counsel appearing for both sides and perused the documents placed on record.

6. It is seen that the suit is of the year 1992. It is also seen that this Court, in two occasions, has directed the Court below to dispose of the suit within a stipulated time frame. Despite the same, the suit is still pending, because of the filing of petition after petition.



7. Perusal of records would show that the above transfer application has been filed before the Principal District Judge, Dindigul, stating that the learned District Munsif is biased on behalf of the other side/defendants and thereby, they sought for transfer of the main suit itself. Without any documents/evidences, the said allegation has been levelled against the learned District Munsif cum Judicial Magistrate, Kodaikanal.

8. For prolonging the matter, the petitioners have questioned the integrity of a Judge. Such type of baseless allegations, without any evidences, are highly deprecated and the learned Principal District Judge, Dindigul has rightly dismissed this plea.

9. Considering the facts and circumstances of the case and in my considered opinion, the order of the learned Principal District Judge, Dindigul dated 24.10.2017, which is impugned in the present revision petition, does not suffer from any infirmity that warrants interference from this Court.

10. In result, this Civil Revision Petition is dismissed. However, the learned District Munsif cum Judicial Magistrate, Kodaikanal, keeping in mind the earlier directions of this Court as well as the age of the suit, shall dispose of the suit as expeditiously as possible. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Dindigul.

2. The District Munsif cum Judicial Magistrate,
Kodaikanal.

C.R.P. (NPD) (MD) No.182 of 2018
30.01.2018

gk

MS/SV-MMS/SAR.3/26.02.2018/4P.3C