



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CRP(PD) (MD) .Nos. 783 and 784 of 2018
and C.M.P(MD) No. 3477 of 2018

S. Amsavalli

.. Petitioner in both CRPs.

Vs.

M.Kumar

.. Respondent in both CRPs.

PRAYER in CRP(PD) (MD) .No.783 of 2018: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order dated 07.03.2018 made in the I.A.No. 200 of 2018 in O.S.No.1190 of 2006 on the file of the learned Principal District Munsif, Tiruchirappalli and set aside the same.

PRAYER in CRP(PD) (MD) .No.784 of 2018: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order dated 07.03.2018 made in the I.A.No. 201 of 2018 in O.S.No.1190 of 2006 on the file of the learned Principal District Munsif, Tiruchirappalli and set aside the same.

For Petitioner : Mr.R.Sundar Srinivasan in both CRPs.

For Respondent : Mr.M.Siddarthan in both CRPs

COMMON ORDER

The petitioner has come forward with these Civil Revision Petitions to call for the records relating to the fair and decreetal order dated 07.03.2018 made in the I.A.Nos. 200 & 201 of 2018 in O.S.No.1190 of 2006 on the file of the learned Principal District Munsif, Tiruchirappalli and set aside the same.

2. The learned counsel appearing for the revision petitioner submitted that the respondent has filed a suit in O.S.No.1190 of 2006 before the learned Principal District Munsif, Tiruchirappalli and pending the suit, the defendant has filed two application in I.A.Nos.200 & 201 of 2018 to re-open and re-call P.W.1 for examination to establish the case of the petitioner. But, the applications were dismissed by the Trial Court. Aggrieved over the same the petitioner has come forward with these Civil Revision Petitions.



3. The learned counsel appearing for respondent submitted that the petitions for re-open and recall filed by the petitioner is intended to drag on the proceedings and are not bonafide. Hence, these Civil Revision Petitions are liable to be dismissed.

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4. Heard both sides and perused the documents available on record.

5. The petitioner, who is the defendant, has filed applications in I.A.Nos.200 and 201 of 2018 for re-open and recall the witnesses P.W.1. In his affidavit he has stated as follows:

"I submit that I have also filed another suit in O.S.No.1359 of 2006 against the plaintiff for permanent injunction and for other reliefs. Both the suits are conducting as joint trial. The suit property in both suits are similar. The plaintiff herein claiming title under the alleged sale deed said to have been executed by the power of attorney of Gangatharan. I am cliaming right under the sale deed executed by the said Gangatharan. Both the suits have been filed only with respect to the possession of the suit property. In order to prove my possession and also to establish my case, it is necessary to recall the P.W.1 (Kumar) and also adducing further documentary evidence and oral evidence on my side. I have a valid case on merit. Hence, it is become necessary to reopen the case to recall P.W.1(Kumar)and adducing further documentary evidence and oral evidence on my side. If this petition is not allowed I will be put to irreparable loss and hardship."

The petitioner states that to re-open and re-call of P.W.1 is necessary to establish the case of the petitioner. Therefore, he has filed the applications to reopen and recall the witness P.W.1.

6. Since, the petitioner has stated valid reason in para 4 of his affidavit, this Court is inclined to permit the petitioner to examine P.W.1 by way of recalling the witness.

7. In the result,

1. these Civil Revision Petitions are allowed; the orders passed in I.A.Nos. 200 & 201 of 2018 in O.S.No.1190 of 2006 dated 07.03.2018 is set aside.

2. the learned Principal District Munsif, Tiruchirappalli, is directed to reopen the case for the purpose of recalling the witness P.W.1;

<https://hcservices.courts.gov.in/hcservices/>
3. the examination of P.W.1 has to be completed within a period of one week from the date of commencement;

4. On completion of examination of the witness, the trial Court



is directed to dispose of the suit within a period of one month without giving any adjournments to either parties, since the suit is for the year 2006, the parties are directed to give their fullest cooperation for early disposal of the suit. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Munsif, Tiruchirappalli.
2. The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1cc to Mr.R.Sundar Srinivasan, Advocate in Sr.No. 60494

+1cc to Mr.M.Siddharthan, Advocate in Sr.No. 60741

ksa

AE/JC/SAR3/17.05.2018/3P/6C

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