



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2018

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) No.2056 of 2017 (PD)
and
C.M.P (MD) No.10218 of 2017

1.Saraswathi
2.Shanmugam

... Petitioners/Petitioners/Defendants

Vs.

Karuppaiah

... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 28.08.2017 passed in I.A.No.821 of 2017 in O.S.No.111 of 2009 on the file of the Subordinate Court, Pudukkottai and to allow the same.

For Petitioner : Mr.D.Rameshkumar

ORDER

This Civil Revision Petition has been filed challenging the order dated 28.08.2017 passed in I.A.No.821 of 2017 in O.S.No.111 of 2009 on the file of the Subordinate Court, Pudukkottai.

2. Heard the learned Counsel for the petitioners and perused the materials available on record. Notice to the respondent is dispensed with.

3. The facts of the case, in nutshell, are as follows:

The respondent /plaintiff has filed a suit in O.S.No.111 of 2009 seeking the relief of specific performance for execution of sale deed dated 23.05.2017. The petitioners are the defendants in the suit. The petitioners filed I.A.No.821 of 2017 to re-open the case for further examination of one S.Sankar, who is said to have participated in the panchayats held between the petitioners and respondent regarding the cancellation of sale agreement.

4. The respondent/plaintiff, before the lower Court, through his counter affidavit denied all the averments made in the affidavit and stated that the petition was filed only to drag on the proceedings.



5. After hearing both sides, the trial Court dismissed the application and aggrieved over the same present Civil Revision Petition has been filed by the defendants.

6. Perusal of records would show that the suit is of the year 2009. The petitioners have filed the application in I.A.No.821 of 2017 to reopen the case for further evidence to examine one S.Sankar, who is said to have participated in the panchayat held between the petitioners and respondent as to the cancellation of sale agreement. According to the petitioners, at the time of evidence, the said Shankar was out of station and hence, the petitioners were not able to examine him as a witness and the evidence of the petitioners were closed and the case was adjourned for argument on 17.07.2017.

7. The case was posted for the petitioners'/defendants' side evidence on 24.01.2011 and after various adjournments the evidence was completed only on 03.01.2012 and in the guise of additional evidence it has been protracted from the year 2012 to 2015. Therefore, the above attitude of the petitioners goes to show that their intention is only to protract the proceedings.

8. The trial court, after analysing the entire facts and circumstances of the case, has rightly dismissed the petition and I do not find any perversity or illegality in the order impugned in this revision.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Pudukkottai.

+ 1 CC TO Mr.D.RAMESH KUMAR, ADVOCATE IN SR No. 50027

RM

TE/KKR/SAR-3 : 08/03/2018 : 2P/3C

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