



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1887 of 2016 and
C.M.P.(MD).No.9019 of 2016

1.Tamil Selvan
2.Vasanthan

.. Petitioners / Petitioners /
Defendants

vs.

1.Gnanam Leon
2.Daphine Reddy
3.Shirly Quaizer
4.Winelie Leon
5.Leelie Leon

.. Respondents /Respondents /
Plaintiffs

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 26.07.2016 in I.A.No.167 of 2015 in O.S.No.40 of 2007, on the file of the I-Additional Sub-Court, Nagercoil.

For Petitioners	: Mr.R.Murugan
For Respondent No.1	: Mr.M.P.Senthil
For Respondent Nos.2 to 4	: Unclaimed
For Respondent No.5	: No appearance

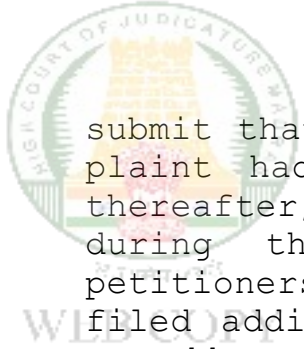
ORDER

O.S.No.40 of 2007 was instituted by one Charlie Leon seeking the relief of Specific Performance against the revision petitioners herein. He had since passed away. His legal representatives have been impleaded as plaintiffs in the suit by order dated 22.08.2008. The revision petitioners wanted to file additional written statement and the same was also permitted by this Court, by order, dated 28.04.2015 in CRP.(MD).No.863 of 2011 and CRP.(MD).No.864 of 2011. When the matter was posted for arguments, the revision petitioners filed I.A.No.167 of 2015 for reopening and recall of PW1. The said IA was dismissed by order, dated 26.07.2016. The correctness of the said order is questioned in this civil revision petition.

2. Heard the learned counsel on either side.

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3. The learned counsel for the revision petitioners would



submit that they had sold the suit property in the year 2005. The plaint had been filed in the year 2002 and was returned and thereafter, re-presented and numbered in the year 2007. It was during the intervening period, the sale by the revision petitioners had taken place. The revision petitioners had also filed additional written statement. Therefore, they are entitled to adduce evidence in respect of the additional pleadings. It is for this reason, they wanted to cross-examine PW1.

4. This Court is unable to agree with the contentions of the learned counsel for the revision petitioners. As rightly pointed out by the learned counsel for the respondents, it is not the first time that the PW1 is sought to be recalled. In fact, PW1 was recalled on 25.08.2010 as per the order in I.A.No.115 of 2010 and cross-examined in full. Therefore, this Court is able to see that only to drag on the proceedings, this IA has been filed. The reasons set out in the affidavit filed in support of the I.A.No.167 of 2015 also do not shed any light on the need to recall and cross-examine PW1. The suit is of the year 2007. It is one for specific performance. The Court below taking note of the age of the suit and stage of the suit, dismissed the IA filed by the revision petitioners. The reasons given by the court below is acceptable and there is no justification in interfering with the same.

5. Hence, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The I-Additional Subordinate Judge,
Nagercoil.

Copy To:-

The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.R.MURUGAN, ADVOCATE IN SR No. 78757

+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 78858

PJL

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TE/RSK/SAR-1 : 24/09/2018 : 2P/6C

C.R.P. (MD) No.1887 of 2016

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