

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).Nos.60 and 61 of 2019

1.Jasneethan
2.Pothraj

...Petitioners/Petitioners/Plaintiffs
in both revisions

Vs

T.Dhanasekaran

...Respondent/Respondent/Defendant
in both revisions

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.12.2018 made in I.A.Nos.503 and 504 of 2018 in O.S.No.285 of 2010 on the file of the learned Principal District Munsif, Alandur.

For Petitioners : Mr.K.P.Chandrasekar
for M/s.Saravana Kumar

COMMON ORDER

The above Civil Revision Petitions are filed challenging the Common Order passed in I.A.Nos.503 and 504 of 2018 in O.S.No.285 of 2010, which are the applications filed to recall and reopen the defendant's side evidence, respectively.

2.The plaintiffs are the revision petitioners and the petitioners have filed two Interlocutory Applications which were dismissed by a Common Order dated 13.12.2018 by the learned Principal District Munsif, Alandur.

3.The brief facts which are necessary to dispose of the revisions are as follows:

The plaintiffs had filed a suit for permanent injunction with reference to the property comprised in Survey No.68, measuring an extent of 1989 sq.ft. in D.No.2/76A, Thulukanathamman Koil Street, Chemmancherry Village, Tambaram Taluk. It is seen from the affidavit filed in support of the recall and reopen applications that both the plaintiffs side as well as the defendants side was closed. Thereafter, an application was moved for reopening the defendant's side evidence. The reason that has been put forward in the affidavits filed in support of the petition seeking to reopen the evidence is that in view of the threat being made by the respondent/defendant, P.W.3 could not appear and give evidence before the Court and a complaint has been

made against the defendant and these documents which are subsequent to the suit are sought to be filed for additional documents for which D.W.1 was sought to be recalled.

4.The learned Principal District Munsif, Alandur, has dismissed the said application by contending that the present application is the second such application which has been moved by the revision petitioners/plaintiffs and the suit is of the year 2010 where the evidence had opened in the year 2016. The application was nothing but an attempt to protract the proceedings. Challenging the said order, the revision petitioners are before this Court.

5.The learned counsel appearing for the revision petitioners would contend that it is very essential to examine D.W.1 in order to mark those documents which will show the threat, P.W.3 has been faced at the hands of the defendant.

6.Heard Mr.K.P.Chandrasekar, learned counsel appearing for the revision petitioners and perused the material available on record.

7.The documents now sought to be marked are all documents that came into existence after the filing of the suit. That apart, D.W.1 has been examined in Chief and cross examination and his evidence was completed in the year 2016. Thereafter, the petitioners/plaintiffs have filed an application to recall PW1 in order to examine him and that petition was allowed on 04.10.2016. P.W.1 was once again examined in part and Ex.A.7 to Ex.A.18 have been marked. Thereafter, it appears that the case was also referred to Lok Adalath on 07.07.2017 and since there is no scope for settlement, the matter was sent back to the Court on 11.08.2017. Thereafter, PW1 was cross examined in full on 13.09.2017 and subsequently, PW2 and PW3 were also examined. The matter was adjourned to 09.04.2018 for evidence of the defendants. On 09.04.2018, the defendant has endorsed that they had no evidence on their side. Therefore, the evidence was closed and the matter was posted for arguments. At this juncture, these applications have been filed.

8.As rightly pointed out by the Court below that the documents have come in to existence subsequent to the suit and further enough

indulgence has been granted to the plaintiffs. Since the suit is of the year 2010 such applications, which are nothing but dilatory tactics, cannot be permitted. I find no infirmity in the orders passed by the learned Principal District Munsif, Alandur.

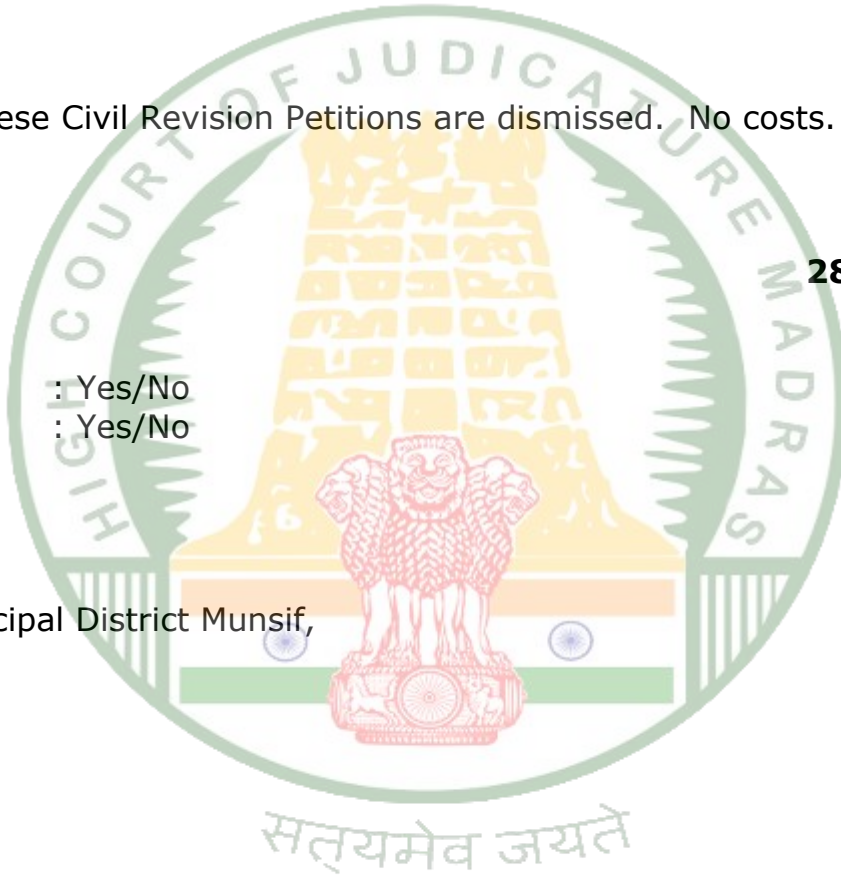
These Civil Revision Petitions are dismissed. No costs.

28.02.2019

Index : Yes/No
Internet : Yes/No
mps/sbn

To

The Principal District Munsif,
Alandur.



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P.T. ASHA, J,

mps/sbn



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