

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.(PD).Nos.2796 & 2839 of 2013
and
M.P.Nos.1 & 1 of 2013

Duraisamy

...

Petitioner
in both CRPs.

..Vs..

Kannan

...

Respondent
in both CRPs.

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India against the order dated 01.10.2012 passed in I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 on the file of the Principal District Munsif Court, Kallakurchi.

For Petitioner
in both CRPs.

: Ms.S.R.Sumathy

For Respondent
in both CRPs.

: No appearance

COMMON ORDER

The instant revisions have been filed challenging the order dated 01.10.2012 passed in I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 on the file of the Principal District Munsif Court, Kallakurchi.

Brief facts leading to the filing of the revisions:

2.The petitioner in both the CRPs is the plaintiff in the suit. He filed the suit O.S.No.504 of 2009 for permanent injunction restraining the respondent/defendant from interfering with his peaceful possession and enjoyment of the suit schedule property. Written statement has also been filed by the respondent/defendant in the suit. After framing of issues, the trial commenced and was completed and the case was posted for arguments. At this stage, the petitioner, who is the plaintiff in the suit, filed I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 seeking to reopen the suit and recall D.W.1 as certain vital questions for the purpose of proving the claim were not asked earlier by the petitioner/plaintiff. A counter was also filed by the respondent/defendant in I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 filed by the petitioner. The Trial Court by its order dated 01.10.2012 in I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 dismissed the said applications on the ground that the petitioner/plaintiff has adopted delaying tactics. Aggrieved by the dismissal of I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009, the instant revisions have been filed.

3.Heard Mr.S.R.Sumathy learned counsel appearing for the petitioner. Despite service of notice on the respondent/defendant, no one has entered appearance on his side.

Discussion:

4.The petitioner is the plaintiff in the suit. He has filed a suit O.S.No.504 of 2009 for permanent injunction against the respondent/defendant from interfering with his peaceful possession and enjoyment of the suit schedule property. The written statement has also been filed by the respondent/defendant in the suit. Issues were also framed by the Trial Court and the trial was also completed, after recording the oral evidence of the petitioner/plaintiff as well as the respondent/defendant in the suit. At the stage of arguments, the petitioner has filed I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 seeking to reopen the suit and re-call D.W.1, since according to the petitioner/plaintiff certain vital questions were not asked earlier during the cross examination of D.W.1. The Trial Court has dismissed I.A.Nos.1550 & 1551 of 2012 on the ground that the petitioner /plaintiff has been adopting delaying tactics. It is the case of the petitioner that the omission to ask certain questions to the respondent/defendant at the time of cross examination pertains to certain vital documents was neither wanton nor willful and it was unintentional due to want of certain documents. That being the case, the petitioner/plaintiff ought to have been given an opportunity by the Trial Court to establish her case by allowing the applications I.A.Nos.1550 & 1551 of 2012, that too, when the petitioner is the plaintiff in the suit and further, no such application was filed earlier by the petitioner/plaintiff after the completion of

ABDUL QUDDHOSE, J.

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recording the oral evidence on both sides. In the result, this Court is of the considered view that the impugned order passed by the Trial Court is erroneous and it has to be set aside. However, considering the long pendency of the suit, a time frame will have to be fixed for the early disposal of the suit.

5. In the result, the order dated 01.10.2019 passed in I.A.Nos.1550 & 1551 of 2012 in O.S.No.504 of 2009 on the file of the learned Principal District Munsif Court, Kallakurchi is hereby set aside and the civil revision petitions are allowed with a direction to the Trial Court to dispose of the suit O.S.No.504 of 2009 after completing the recording of oral evidence on both sides within a period of 4 months from the date of receipt of a copy of this order.

सत्यमेव जयते

11.01.2019

Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking orders

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To

The Principal District Munsif Court,
Kallakurchi.

**C.R.P.(PD).Nos. 2796 &
2839 of 2013**