

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISHKUMAR

C.R.P.Nos.4262 & 4263 of 2013

and

M.P.No.1 of 2013 in

C.R.P.No.4262 of 2013

S.Mohanasundanam ... Petitioner in both the petitions.

Vs

Sivagamasundari .. Respondent in both the petitions.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned District Munsif cum Judicial Magistrate, Vanur dated 23.08.2013 made in I.A.Nos.336 & 337 of 2013 in O.S.No.5 of 2007.

For Petitioner : Mrs.G.Sumithra

For Respondent : Mr.P.B.Ramanujam for R1

C O M M O N O R D E R

These Civil Revision Petitions have been filed against the order of the trial Court in dismissing the applications filed to reopen and recall the evidence of PW1 for cross examination.

2.The suit has been filed for permanent injunction against the defendants. The trial Court has dismissed both the applications filed by the revision petitioner to reopen and recall the evidence of PW1 against which the present revision has been filed. The learned Counsel for the revision petitioner would contend that one more opportunity can be given in order to substantiate her case. The learned Counsel for the revision petitioner further contended that cost may also be imposed and an opportunity may be granted to the revision petitioner to contest their case.

3.The learned Counsel for the respondent submitted that the conduct of the revision petitioner does not deserve any leniency in this revision petition and the same is liable to be dismissed.

4.I have perused the entire materials on record and the order of the trial Court. From the narration of the facts by the lower Court, it can be seen that PW1 was examined on 13.06.2011 and thereafter, the case was adjourned on various dates for cross examination and posted on 27.08.2012. However, no cross examination was done on the said date. Again, though the matter was adjourned for various dates till 17.12.2012, the defendant has not cross examined PW1. Thereafter, the Court has posted the

case for further plaintiffs side witnesses. Again, the witnesses have not been cross examined on various dates till 01.03.2013.

5. On 01.03.2013, the revision petitioner has filed a petition to reopen and recall the parties for cross examination. Subsequently, the case has been adjourned to various dates and the trial Court has allowed the application for cross examination and again on various dates viz., 19.06.2013, 24.06.2013, 26.06.2013, 27.06.2013, 01.07.2013, 15.07.2013 and 17.07.2013 the matter was adjourned. In all the above hearings, the PW1 was not cross examined despite the presence of the defendant side Counsel.

6. It is seen that from 27.08.2012, no cross examination was made by the defendant. Further it is seen that the trial Court was, in fact, so liberal in adjourning the matter for years together by granting time to cross examine PW1. Despite such opportunities, the defendant has not chosen to cross examine PW1. Further, when the parties approach the Court of law to establish their right, they cannot play in the Court to show their vindictiveness. Several opportunities were given by the Court to cross examine PW1. Instead of establishing their case and availing their opportunities to cross examine the witnesses, the party cannot make the Court procedures as laughing stock by adopting dilatory tactics. Hence, the very conduct of the defendant itself clearly indicates his intention to drag on the proceedings. Such litigant, who fails to avail the several opportunities granted by the Court of law does not deserve any leniency from the Court.

7. Accordingly, I do not find any illegality or error in the order passed by trial Court and this Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The trial Court is directed to dispose of the suit within three months from the date of receipt of the copy of this Order.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

The District Munsif cum Judicial Magistrate, Vanur.

+1cc to Mrs. G. Sumithra, Advocate SR.No. 26363

+1cc to Mr. P. B. Ramanujam, Advocate SR.No. 26398

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