

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P. (PD) Nos.3869, 3877 and 3884 of 2019
and C.M.P.No.25539 of 2019

1.Marathal
2.Poovathal

... Petitioners in all C.R.Ps

-Vs-

1.A.P.Velusamy
2.P.Dhandapani
3.P.Murugasamy
4.V.Muthulakshmi
5.Tiruppur Senthil Cotton Mills
represented by its Managing Director
having Office at D.No.302
Andipalayam, Mangalam Road
Andipalayam village, Tirupur Taluk.

... Respondents in all C.R.Ps.

Prayer in C.R.P.No.3869 of 2019 : Civil Revision Petitions under Article 227 of the Constitution of India against the fair and decreetal order dated 09.07.2019 made in I.A.No.61 of 2019 in O.S.No.430 of 2009 on the file of the Subordinate Court, Tirupur.

Prayer in C.R.P.No.3877 of 2019 : Civil Revision Petitions under Article 227 of the Constitution of India against the fair and decreetal order dated 09.07.2019 made in I.A.No.59 of 2019 in O.S.No.430 of 2009 on the file of the Subordinate Court, Tirupur.

Prayer in C.R.P.No.3869 of 2019 : Civil Revision Petitions under Article 227 of the Constitution of India against the fair and decreetal order dated 09.07.2019 made in I.A.No.60 of 2019 in O.S.No.430 of 2009 on the file of the Subordinate Court, Tirupur.

For Petitioners : Ms.R.Shase

For Respondents : Mr.K.Vignesh Karthick (for caveators)

ORDER

These revision petitions have been filed against the fair and decreetal order dated 09.07.2019 made in I.A.Nos.61 of 2019, 59 of 2019 and 60 of 2019 in O.S.No.430 of 2009 on the file of the Subordinate Court, Tirupur.

2. The revision petitioners are the plaintiffs and the respondents are defendants 11 to 15 before the trial Court. The defendants 11 to 15 filed these three applications ie., I.A.Nos.59 to 61 of 2019 to reopen and recall the defendants' evidence and to adduce additional documentary evidence. The said applications, since have been allowed through the impugned order, aggrieved over the same the present revision petitions have been filed by the plaintiffs / revision petitioners.

3. Heard Mr.R.Shase, learned counsel for the petitioners and Mr.Vignesh Karthick, learned counsel for the respondents, who entered appearance through caveat.

4. Learned counsel for the petitioners, before canvassing the merits of the case, has fairly submitted that, now only they came to know through their other side counsel that, before the C.R.Ps are moved, pursuant to the impugned orders, the Court below has reopened the evidence and recalled the defendants side witnesses and through whom, evidence have been recorded and additional documents have been marked. When that being the position, the impugned order,

which is challenged herein, has already been acted upon, the only legal remedy available to the revision petitioners is either to cross examine the witnesses, who have now adduced additional evidence on behalf of the defendants and also to invoke the law to seek for eschewing the evidence already recorded from the defendants side as additional evidence. Protecting those rights, these revision petitions can be disposed of, she contended.

5. Learned counsel for the respondents would submit that after the disposal of these three interlocutory applications and after having recorded the additional evidence on the side of the defendants, the plaintiffs filed three applications to reopen and recall their evidence and that is also pending before the trial Court and therefore, nothing survives in these revision petitions as of now.

6. I have heard the submissions made by the learned counsel appearing for both sides and have gone through the materials placed before this Court.

7. As has been rightly pointed out by the learned counsel for the respondents, which has been fairly accepted by the learned counsel for the revision petitioners, of course with a rider to protect the interest of the plaintiffs / revision petitioners as indicated above, this Court is inclined to dispose of these Civil Revision Petitions with the following observations.

R. SURESH KUMAR, J.

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8. Since the impugned orders have already been acted upon and additional evidence has already been recorded, the veracity of the said orders cannot be gone into at this juncture and this position has been accepted by both sides and therefore, the impugned order has to be sustained. Accordingly, these revision petitions fail and they deserve to be dismissed.

9. However, the rejection of these revision petitions will not preclude the rights of the revision petitioners either to cross examine the witnesses on the defendants side and also to file a petition to eschew the additional evidence adduced by them, if they are advised to do so.

10. With the above observations, the Civil Revision Petitions are dismissed.
No costs. Consequently, connected miscellaneous petition is also dismissed.

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Index : Yes/No
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To

The Subordinate Judge, Tirupur.

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