



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2019

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.837 of 2019

and

C.M.P. (MD) .No.5035 of 2019

1.M.Saraswathy
2.M.Thaiyalnayaki
3.M.Sudha
4.M.Senthil Nathan

... Petitioners

-Vs-

1.Rajam
2.Jegan
3.Suvithamospandian
4.Johnson Chellaiah Pandian@Thambu Pandian

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.3 of 2019 in O.S.No.345 of 2013 dated 23.04.2019 on the file of the II Additional District Munsif, Tirunelveli.

For Petitioners : Mr.T.Selvan

O R D E R

This Civil Revision Petition has been filed against the fair and decreetal order passed in I.A.No.3 of 2019 in O.S.No.345 of 2013.

2.According to the petitioners, they have filed a suit in O.S.No.345 of 2013 for permanent injunction. Pending suit, I.A.No.3 of 2019 was filed by the respondents herein to recall of P.W1 for cross examination. After perusing the oral and documentary evidence, the learned II Additional District Munsif, Tirunelveli has allowed the said I.A. Aggrieved against the said order, the petitioners are before this Court.

3.The learned counsel for the petitioners would state that the respondents have not given valid reasons to recall of P.W.1. Only with an intention to drag on the proceedings, the respondents herein sought for cross examination of P.W.1.



4. A perusal of record shows that the learned trial Judge has elaborately gone through the various judgments cited by the petitioners herein, reported **in 2016(3) MWN Civil, Page 566 and the orders of this Court reported in 2008(1) CTC Page 177 and 2008 (2) MLJ Page 382**, wherein Order 18 Rule 17 C.P.C, is to be exercised under exceptional cases. But in the present case, it is only a continuation of chief examination.

5.I have gone through the entire papers and there is no iota of evidence to show that the petitioners to fill up lacuna, has sought recall of P.W.1 for cross examination. Since the trial has been commenced, the respondents cannot protract the proceedings. Accordingly, the order passed in I.A.No.3 of 2019 in O.S.No.345 of 2013 on the file of the learned II Additional District Munsif, Tirunelveli is confirmed and this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, on receipt of copy of this order, the learned II Additional District Munsif, Tirunelveli shall fix the specific date to recall P.W.1 for cross examination and on the same day itself the entire cross examination has to be completed. The learned trial Judge is further directed to dispose the suit in O.S.No.345 of 2013 in accordance with law, within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

msa

To,

The II Additional District Munsif, Tirunelveli.

+1CC TO M/S.T.SELVAN,ADVOCATE, SR.NO.68809

C.R.P. (MD) No.837 of 2019
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BUC (03/07/2019) 2P/3C