



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2019

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)Nos.1019 and 1020 of 2019
and
C.M.P(MD)No.5605 of 2019
in CRP(MD)No.1019 of 2019

K.Soundharajan

.. Petitioner in both CRPs.

Vs.

Parathan

.. Respondent in both CRPs.

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 06.02.2019 made in I.A.Nos.1 and 2 of 2019 in O.S.No.184 of 2013 by the learned Third Additional District Judge, Tiruchirappalli.

For petitioner : Mr.J.Barathan,
in both CRPs.

For Respondent : Mr.N.C.Ashok Kumar
in both CRPs.

COMMON ORDER

Against the dismissal of the petitions seeking to reopen the suit and recall P.W.1, these revisions have been filed.

2.The respondent / plaintiff filed O.S.No.184 of 2013 for the reliefs of declaration and permanent injunction. The second defendant filed written statement. When the matter is posted for the examination of the petitioner / 2nd defendant, he has filed the present petitions seeking to reopen the suit for further cross-examination of P.W.1 and to recall P.W.1 for cross-examination. The Court below has dismissed both the petitions, against which, the present revision petitions have been filed.

3.The learned counsel appearing for the petitioner / 2nd defendant would submit that on 12.10.2018, change of vakalat has been filed on behalf of the petitioner / 2nd defendant and the present counsel has found that cross-examination has not been done in respect of some important aspects and therefore, the present



applications have been filed to reopen the case and also to recall P.W.1 for cross-examination. But, the Court below has erroneously dismissed the same. Thus, he prayed to set aside the same.

4.The learned counsel for the respondent / plaintiff would submit that the petitioner / 2nd defendant has filed the present petitions only to drag on the proceedings. Thus, he prayed to dismiss the revision petitions.

5.Heard the learned counsel for the petitioner / 2nd defendant and the petitioner / plaintiff and also perused the materials available on record.

6.Perusal of records shows that the Court below has clearly depicted how the petitioner / 2nd defendant had adopted delaying tactics. P.W.1 was examined from 09.12.2014 and the plaintiff's side evidence was closed on 21.09.2015. Thereafter, due to non-appearance of the petitioner / 2nd defendant, he was set ex parte and on petition, the same was set aside on payment of cost of Rs.500/- and on 20.09.2018, P.W.1 was cross-examined and on payment of cost of Rs.1,000/-, adjournment was granted. Once again, on 05.10.2018, the petitioner / 2nd defendant sought time and the Court below granted adjournment on payment of cost of Rs.1,000/-. On the next hearing date, i.e., on 12.10.2018, the petitioner / 2nd defendant has filed change of vakalat and P.W.1 was cross-examined. Thereafter, P.W.3 was examined. When the suit was pending for examination of the petitioner / 2nd defendant from 22.11.2018, the petitioner / 2nd defendant filed petitions to reopen the suit and recall P.W.1 and the same were also allowed on payment of cost of Rs.1,000/- and the matter was adjourned to 23.10.2019 and subsequently on 31.01.2019 for cross-examination of P.W.1. Since the petitioner / 2nd defendant was not ready on the said hearings, P.W.1's evidence was closed. But, once again, the petitioner / 2nd defendant has filed these petitions, which in my considered opinion, is only to drag on the proceedings. The Court below, after considering the delaying tactics adopted by the petitioner / 2nd defendant, has rightly dismissed the same, which requires no interference from this Court. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar



C.R.P(MD)Nos.1019 and 1020 of 2019

To

The Third Additional District Judge,
Tiruchirappalli.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-80366[F] dated
07/08/2019)

+1 CC to M/s.N.C.ASHOK KUMAR, Advocate (SR-80578[F] dated
08/08/2019)

COMMON ORDER MADE IN
C.R.P(MD)Nos.1019 and 1020 of 2019
07.08.2019

smn

MS/10.09.2019/3P.4C