

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18..02..2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition Nos.695, 696 and 697 of 2020
and
C.M.P.No.3638 of 2020 in C.R.P.No.696 of 2020

P.Venkatraj

...Petitioner in all CRPs
/4th Defendant

-Versus-

N.Elango @ Elangovan

...Respondent in all CRPs

Prayer in C.R.P.No.695 of 2020: Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 02.01.2020 made in I.A.No.6 of 2019 in O.S.No.14 of 2012 by the learned Subordinate Judge, Perundurai, Erode District.

Prayer in C.R.P.No.696 of 2020: Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 02.01.2020 made in I.A.No.4 of 2019 in O.S.No.14 of 2012 by the learned Subordinate Judge, Perundurai, Erode District.

Prayer in C.R.P.No.697 of 2020: Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 02.01.2020 made in I.A.No.5 of 2019 in O.S.No.14 of 2012 by the learned Subordinate Judge, Perundurai, Erode District.

For Petitioner : Mr.M.Guruprasad for
petitioner in both CRPs

सत्यमेव जयते

ORDER

The civil revision petition in C.R.P.No.695 of 2017 has been filed against the order passed by the learned Subordinate Judge, Perundurai, dismissing the application filed by the petitioner under Order VIII , Rule 1(3) of CPC seeking to receive the documents enclosed with the petition by condoning the delay in producing the same; while the other revision petitions in C.R.P.Nos.696 and 697 of 2020 have been filed against order dismissing the applications filed by the petitioner in I.A.Nos.4 and 5 of 2019 seeking to reopen the evidence and recall D.W.5 for further examination.

2. This civil revision petition is coming up today for admission. I have heard the learned counsel for the petitioner and also perused the records carefully.

3. The petitioner is the 4th defendant in the suit in O.S.No.14 of 2012. The respondent filed the suit for partition and separate possession. Pending trial, earlier the petitioner filed applications to reopen the evidence and recall the witness for the purpose of marking certain documents. Those applications were allowed on 19.10.2019 on cost. Accordingly, the evidence was reopened and the petitioner was permitted to mark the additional documents. Thereafter, when the suit was listed for arguments after closing the evidence of the defendants, the applications under revisions came to be filed by the petitioner, who is the 4th defendant in the suit for reception of documents and reopen and recall D.W.5 for the purpose of examination on the side of the petitioner. The court below dismissed those applications holding that after the suit was posted for arguments, the petitioner came forward with applications for reopening and recalling the defendants' side witness which were allowed on cost and thereafter, when the suit was posted for arguments for the second time, after the evidence was closed, the petitioner had chosen to file another set of applications under revision only in order to drag on the suit. On going through the order impugned in the revision this court does not find any infirmity in the reasoning given by the court below for the dismissal of the application. The petitioner was given opportunity to adduce documentary evidence by reopening and recalling the defendants' side witness. After the suit was posted for arguments for the second time, the petitioner filed the applications under revision for the purpose of marking certain documents, which were nothing but a certified copy of plaint in O.S.No.176 of 2011 and written statement filed therein, as additional evidence. The averments in the affidavit would show that the petitioner was well aware of the earlier suit proceedings. The court below having considered the facts and circumstances of the case rightly dismissed the applications holding that the petitioner has not explained the delay in producing the document in which this court does not find any infirmity. Thus, the revisions fail and the same are liable only to be dismissed.

In the result, civil revision petitions are dismissed and the order passed by the court below is confirmed. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Subordinate Judge, Perundurai, Erode District.

Civil Revision Petition
Nos.695, 696 and 697 of 2020

PP (CO)
KKV/24/07/2020



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