

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).Nos.3293 & 3294 of 2012

and

MP.No.1 of 2012

1.Vengappan @ Venkitachalam

2.Palinisamy

3.Shanmugham

4.Nagarajan

5.Moorthy

6.Duraisamy

... Petitioners
(in both CRPs)

Versus

1.Family Manager, Dhanalakshmi

Thambiana Gounder @ Palanisamy Gounder (Died)

Chinnappayyan @ Muthusamy Gounder (Died)

Ponnappan @ Thangamuthu Gounder (Died)

2.Minor. Dhanasekaran

3.Minor. Sampathkumar
(Rep.by mother Saraswathi for R2 & R3)

4.Pappathi

Ammaniammal (Died)

5.Lakshmi

6.Rathinambal

7.Vasanthi

... Respondents
(in both CRPs)

Common Prayer:

Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair and final orders dated 06.06.2012 in I.A.No.463 of 2012 and I.A.No.464 of 2012 respectively, in O.S.No.272 of 2004 on the file of the District Munsif Cum Judicial Magistrate, Perundurai.

For petitioners : Ms.P.T.Ramadevi
(in both CRPs)

For Respondents : Mr.P.Valliappan (for R1)
(in both CRPs) : No Appearance - R2 to R4, R6 & R7
: Not ready - R5

COMMON ORDER

The defendants 2, 4, 5, 7, 8 and 13 in O.S. No. 272 of 2004 are the petitioners herein.

2.The respondents/plaintiffs filed the suit in O.S.No.384 of 1999 before the Sub Court, Erode for permanent injunction. After enhancement of pecuniary jurisdiction, the suit was transferred to the trial Court and taken on file as O.S.No.272 of 2004. Both sides, all the witnesses were examined and arguments also heard and case reserved for Judgment on 23.04.2012. At this juncture, the respondents/plaintiffs has filed the

Petition to recall PW.1 for the purpose of marking R.S.R and Chitta extract to correlate the exhibit A4 and to prove the plaintiff's case. The other side raised objection stating that the respondent/plaintiff has already filed petition twice for recalling and for reopening the case and the same were allowed and again after reserving the judgment, once again the respondent/plaintiff has filed the petition at belated stage. The trial court however allowed the application filed by the plaintiff, hence, the defendants 2, 4, 5, 7, 8 and 13 have filed this Civil Revision Petition.

3. Taking into consideration, the rival submissions and also taking note of the fact that the plaintiff has indulged in similar attitude by filing petitions to recall and to reopen on two occasions earlier and the both applications are allowed. However, after arguments are over, the matter was posted for orders. Again, plaintiff filed the above said two petitions for the same relief. The Trial Court has allowed the application by stating that an opportunity has to be given on condition of payment of costs of Rs.300/- for each petition.

4. After going through the affidavit filed in support of the applications and also subject matter involved in this case, I am of the considered view that taking into consideration the attitude of the respondent/plaintiff in filing similar petition twice and in order to afford one more opportunity to the petitioner/plaintiff to mark some document, the Trial Court has rightly

allowed the petition with costs of Rs.300/- for each of the application. Having regard to the above, while confirming the order of the trial court, this Court modified the payment of costs from Rs.300/- to Rs.600/- per petition.

With these modification, the Civil Revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

06.01.2020

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

klt

To

The District Munsif Cum Judicial Magistrate, Perundurai.

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RMT.TEEKAA RAMAN,J.,

klt



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