

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

**CRP PD. No.995 of 2020
in
CMP.No.5393 of 2020**

E.K.P.Raajenthara

...Petitioner

VS

K. Nachiappan

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 07.02.2020 made in I.A.No.09 of 2020 in O.S.No.41 of 2010 on the file of the Principal District Munsif Court, Trichengode.

For Petitioner : Mr. R. Marudhachalamurthy

ORDER

Heard the learned Counsel for the petitioner.

2. The respondent herein filed a suit in O.S.No.41 of 2010 seeking a decree for Permanent Injunction and Mandatory Injunction against the revision Petitioner with regard to the suit property.

3. The aforesaid suit has been filed in the year 2010 and posted for trial in the year 2019 and evidence was adduced by the plaintiff as P.W.1

and he was also cross examined by the defendant. The case was posted on 24.01.2020, 27.01.2020, 29.01.2020, 01.02.2020 and 04.02.2020 for letting in evidence on the side of the defendant. At that stage, the revision petitioner/defendant filed an application to recall P.W.1 for cross examination.

4. According to the learned counsel for the Revision Petitioner, the aforesaid application was filed to recall P.W.1, only for posing questions with regard to the physical features of the suit property and subsequent developments. He would contend that the Court below erroneously dismissed the said application, and therefore, the present Civil Revision has been filed.

5. On a perusal of the typed set of papers filed in support of the Civil Revision Petition, firstly, the respondent/plaintiff had concluded both chief and cross examination of the witness and thereafter, the aforesaid suit was posted for examination of the defendant on 24.01.2020, 27.01.2020, 29.01.2020, 01.02.2020 and 04.02.2020. However, the Revision Petitioner has not let in any evidence on those days. Only thereafter, the Revision Petitioner had filed I.A.No.9 of 2020 to recall P.W.1.

6. On a perusal of the documents and the submissions of the learned counsel for the respondent, it is seen that the revision petitioner had not filed said application seeking to reopen P.W.1 witness for further cross examination in the aforesaid suit. Therefore, On that ground, the said Interlocutory Application filed to recall and cross examine P.W.1 was held to be not maintainable. Apart from that, the aforesaid suit, posted for examination of the defendant's side witness, was adjourned for several times. The Revision Petitioner has not chosen to file the said application immediately on completion of the plaintiff's side evidence. Therefore, this Court is satisfied with the reasons assigned by the Court below and this Court does not find any merit in the above civil revision petition.

7. Accordingly, the Civil Revision Petition is dismissed. There is no order as to cost. Consequently, connected miscellaneous petition is closed.

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Index: Yes / No

Internet: Yes / No

Speaking / Non-Speaking order

To

The Principal District Munsif Court, Trichengode.

Bga

D. KRISHNAKUMAR, J.

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