

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.2679 of 2018
and
C.M.P.No.15917 of 2018

A.Venugopal ... Petitioner/1st Defendant
Vs.

1. Vairavel
2. Kamalakkannan
3. Raja Ganapathi
4. Padmavathi ... Respondents/Plaintiff &
Defendants 2 to 4

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 20.03.2018, passed by the learned Additional District Judge, Namakkal, Salem District in I.A.No.372 of 2017 in O.S.No.132 of 2014.

For Petitioner : Mr.L.Mouli

For Respondent 1 : Mr.K.Thangavelu

For Respondent 4 : Mr.P.Ravishankar Rao

O R D E R

Present revision has been filed against the order dismissing petitioner's application seeking to recall P.W.1 for the purpose of cross examination.

2. Petitioner is the first defendant in the suit. The first respondent filed the suit for partition and separate possession. Pending suit, the petitioner filed an application to recall P.W.1 for the purpose of cross examination and that application came to be dismissed. Challenging the same present revision has been filed.

3. Mr.L.Mouli, learned counsel appearing for the petitioner submitted that in the suit for partition, plaintiff relied upon a Will executed by their Great Grandfather and now the Will has been produced by the Deputy Registrar and only for that purpose the petitioner has filed the present application to recall the plaintiff for cross examination with regard to the Will. According to the learned counsel, the

trial Court dismissed the application without considering the application in its proper perspective.

4. Heard the learned counsel appearing for the parties and also perused the records carefully.

5. Plaintiff's evidence was closed in the year 2016 and thereafter the suit was posed for examination of D1. Even after two years, the petitioner did not come forward to give evidence. In the above circumstances, the Court below dismissed the application on the ground that the present application has been filed only to drag on the proceedings. I do not find any illegality or irregularity in the same as the trial Court has rightly dismissed the said application. There is no merit in the revision and the same is liable to be dismissed.

6. In the result, the civil revision petition is dismissed and the fair and decreetal order of the Court below, impugned in this revision is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (MDU)

//True Copy//

Sub Assistant Registrar

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To

The Additional District Judge,
Namakkal.

+1cc to Mr.L.Mouli, Advocate, S.R.No. 13215

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GJ(CO)
GN(16/07/2020)