

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[RESERVED ON : 10.12.2020]

[PRONOUNCED ON : 15.12.2020]

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P. PD.No.2116 of 2020

and

C.M.P.No.13375 of 2020

Malar

... Petitioner/Plaintiff

.. Vs ..

1. Raji Gounder
2. Nallarasu
3. Amutha
4. Madhammal
5. Krishnaveni
6. The president/Secretary,
K.K.166, Salamarathupatti Primary
Agricultural Co-operative Bank,
Uthangarai Taluk,
Krishnagiri District.
7. The President/Secretary,
TPD444 Co-operative Milk Producers Society,
Kattupatti Village, Sulakarai Post,
Uthangarai Taluk,
Krishnagiri District.

8. Co-Registrar of Co-operatives,
Co-operative Societies,
Krishnagiri.
9. The Registrar,
Co-operative Societies,
Keelpakam,
Chennai.
10. Selvam ... Respondents/Defendants

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 06.02.2020 made in I.A.No.02 of 2019 in O.S.No.305 of 2014, on the file of the Subordinate Court, Uthangarai.

For Petitioner : Mr.J.Pradeep

ORDER

This Civil Revision Petition is filed by the petitioner/plaintiff under Article 227 of the Constitution of India, against the fair and decreetal order dated 06.02.2020 passed by the learned Subordinate Court, Uthangarai, in I.A.No.02 of 2019 in O.S.No.305 of 2014.

2. The plaintiff in the suit is the revision petitioner herein. She has filed the above said suit for partition and separate possession and for a declaration to declare the Sale Deed Document No.1869 of 1996 executed by the second defendant in favour of the sixth defendant as null and void.

3. The defendants in the said suit have filed written statement. Issues have been framed and the evidence on the side of the plaintiff was over. On the side of the defendants, one Ms.Arulmozhi, was examined as D.W.1. The chief examination of D.W.1 was recorded on 13.07.2018 and she was cross-examined by the plaintiff's side on 26.06.2018, 11.09.2018 and 04.12.2018. Thereafter, the case was adjourned for further cross-examination of D.W.1. Despite 15 hearings, the plaintiff side did not come forward to cross-examine D.W.1 and hence, the learned Subordinate Judge, Uthangarai, suo motu closed the cross-examination of D.W.1 and posted the matter for arguments on 01.04.2019, 04.04.2019, 05.04.2019 and 08.04.2019. At this juncture, the revision

petitioner/plaintiff has filed an Interlocutory Application under Order 18 Rule 17 r/w. Section 151 of C.P.C., praying to recall D.W.1 for further cross-examination. The said application was dismissed by the learned Subordinate Judge, Uthangarai. As against the order of dismissal, the present Civil Revision Petition has been filed by the revision petitioner/plaintiff.

4. Learned counsel for the revision petitioner/plaintiff would submit that an opportunity has to be given to cross-examine D.W.1, since notice to produce certain documents was given to her and she has not marked those documents and on this score, the revision petitioner/plaintiff wants to cross-examine D.W.1. When the plaintiff served notice on the side of the defendants, and the defendants have not produced any documents, the Court has adverse inference against the defendants.

5. On a perusal of the records, it is seen that on the side of the defendants, one witness was examined as D.W.1 and the chief

examination of D.W.1 was recorded on 13.07.2018 and she was cross-examined by the plaintiff's side on three spells i.e., on 26.06.2018, 11.09.2018 and 04.12.2018. Thereafter, the case was adjourned for further cross-examination of D.W.1, till 27.03.2019 and for more than 13 hearings, the plaintiff side did not come forward to cross-examine D.W.1 and therefore, the learned Subordinate Judge was constrained to close the cross-examination of D.W.1. Thereafter, the case was posted for arguments on several hearings i.e., on 01.04.2019, 04.04.2019, 05.04.2019 and 08.04.2019. On 08.04.2019, application in I.A.No.02 of 2019 was filed by the plaintiff and the same was returned and again, the case was posted for arguments. In such circumstances, after getting several adjournments for arguments, again, the said application was re-presented. The conduct of the revision petitioner/plaintiff apparently manifests as she is prolonging the matter wantonly. The suit is of the year 2014 and the trial commences only on 24.07.2017.

6. On a perusal of the order passed by the learned Subordinate Judge, Uthangarai, it is seen that sufficient opportunity viz., 15 hearings

were given to the revision petitioner/plaintiff for further cross-examination of D.W.1. But the revision petitioner/plaintiff, for the reasons best known to her, has not chosen to cross-examine D.W.1 for almost one year and the cross-examination of D.W.1 was suo motu closed by the learned Subordinate Judge and the case was posted for arguments. When the case was posted for respondent's side arguments, application to recall D.W.1 for further cross-examine her has been filed only to drag on the proceedings. The finding arrived at by the learned Subordinate Judge is just and proper. Hence, this Court finds that the reasons cited above shall be more than sufficient for the dismissal of the Civil Revision Petition at the threshold.

7. In the result, this Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

15.12.2020

Index : Yes
Internet : Yes
Jrl

To

1. The Subordinate Court,
Uthangarai.
2. The president/Secretary,
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RMT.TEEKAA RAMAN, J.

JRL



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