

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) Nos.3123, 3124 & 3125 of 2018
and C.M.P.No.17982 of 2018

Muthuperumal ... Petitioner in all the petitions

Vs.

1. Syed Noor Ali

2. Kamila Begam ... Respondents in all the petitions

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 17.09.2018 made in (i) I.A.No.135 of 2018, (ii) I.A.No.133 of 2018 (iii) I.A.No.134 of 2018 respectively on the file of the District Munsif-cum-Judicial Magistrate, Parangipettai.

For Petitioner : Mr.Adithya Karthikeyan
(in all the petitions) for M/s.A.E.Ravichandran

For Respondent : Mr. S.Sathia Chandran
(in all the petitions)

COMMON ORDER

This matter is taken up for hearing through Video-Conferencing.

These three Revisions are by the plaintiff in OS No.11 of 2013, challenging the orders made by the District Munsif cum Judicial Magistrate, Parangipettai, made in IA Nos.133, 134 and 135 of 2018, applications filed by him to reopen the suit, recall P.W.1 and to produce documents.

2. The suit was laid by the plaintiff for a permanent injunction restraining the defendants from interfering with his possession without due process of law. According to the plaintiff, the defendants had orally agreed to sell the suit property to him and received a sum of Rs.5,00,000/- in the year 2008. Pursuant to the same, he was also put in possession of the property. It is claimed that he is in continuous possession and his wife who is a Doctor, is also practising medicine in the premises. It is also averred in the plaint that when he demanded performance of the contract the defendants refused. On the above averments, the plaintiff sought for a permanent injunction restraining the defendants from interfering with his possession.

3. The suit is being resisted by the defendants on various grounds.

After completion of the trial when the suit was posted for arguments, the plaintiff has come up with these applications claiming that he was able to trace from some documents during the course of search in his house and therefore, he wanted the suit to be reopened and P.W.1 to be recalled to enable him to mark those documents.

4. This is resisted by the defendants contending that the applications are belated. It is their further contention that it is only an attempt to fill up the lacuna in the evidence of the plaintiff.

5. The learned Trial Judge who heard the applications agreed with the defendants and dismissed the applications.

6. I have heard Mr.Adithya Varadharajan, learned counsel appearing for Mr.A.E.Ravichandran, for the petitioner and Mr.S.Sathiachandran, learned counsel appearing for the respondents.

7. Mr.Adithya Karthikeyan, learned counsel appearing for the petitioner would contend that the Court should not have been so rigid to deny an opportunity to the plaintiff to produce evidence in support of his case. He would also point out that these documents that are sought to be produced are public documents and they cannot be manufactured or created by the petitioner.

8. Contending contra Mr.S.Sathiachandran, learned counsel appearing for the respondents would submit that none of these documents are referred to in the plaint. If only those documents had existed on the date of the plaint, those documents would have been referred to in the suit. The plaintiff cannot after the entire evidence is over attempt to produce documents, thereby reopen the suit and take the defendants by surprise. Therefore, according to Mr.S.Sathiachandran, the learned Trial Judge was perfectly justified in dismissing the application.

9. I have considered the rival submissions.

10. The suit is one for injunction and the plaintiff is expected to prove his possession as on the date of the suit. The suit was filed in the year 2013. The evidence of both the plaintiff and the defendants was completed. The suit is posted for arguments. It is at this stage, the plaintiff has come up with these applications. No doubt, the documents that are sought to be produced are public documents and Mr.Adithya Varadharajan, learned counsel appearing for the petitioner had perfectly justified in claiming that these documents being public documents cannot be manufactured. Unfortunately there is no reference to these documents in the plaint. The plaintiff has not given any reason, as to why, these documents were not referred to in the plaint earlier. Only reasons that is given is that these documents were discovered only when he made search for documents in his house. That search should have been made earlier and the plaintiff cannot seek the Court's indulgence for the absence of diligence he committed.

11. Considering the nature of the suit, I do not think that these prayers could be granted at this belated stage after the evidence is completed. If these applications are allowed and the trial is reopened, a complete retrial of

the suit will have to be done. The purpose of Order 18 Rule 17 of the Code of Civil Procedure is not enable to reopen a case for complete retrial.

12. I am therefore of the opinion that the Trial Court was justified in dismissing the applications and I do not see any illegality or irregularity in the order of the Trial Court in order to enable me to interfere with the same under Article 227 of the Constitution of India. The Civil Revision Petitions therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

jv

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking order

07.10.2020

सत्यमेव जयते
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To

1. The District Munsif-cum-Judicial Magistrate,
Parangipettai.
2. The Section Officer,
V.R.Section,
High Court of Madras.



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R.SUBRAMANIAN, J.

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