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CRP (MD)Nos.2380 to 2382 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP (MD)Nos.2380 to 2382 of 2017

and

CMP (MD)No.11375 of 2017

Jamruthgani

.. Petitioner in all CRPs.

Vs.

Mohamed Ibrahim

... Respondent in all CRPs.

Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 10.10.2017 passed in I.A.Nos.429 to 431 of 2017 in O.S.No.133 of 2013 by the Principal Sub Court, Kumbakonam.

For Petitioner : Mr.G.Prabhu Rajadurai

Mr.K.Chengizkhan

COMMON ORDER

The respondent/plaintiff has filed a suit against the petitioner in O.S.No.133 of 2013 on the file of the Principal Sub Court, Kumbakonam. After completion of pleadings, framing of issues, completing trial and after completion of argument, when the matter was reserved for judgment, the petitioner herein has filed applications to recall the witnesses in I.A.Nos.429 to 431 of 2017, which were dismissed by the trial Court on the ground that after hearing argument when the matter was posted for judgment, he filed the petitions to recall the witnesses. Challenging the said orders, the petitioner/defendant has filed the present Civil Revision Petitions before this Court.

2.The learned counsel for the petitioner would submit that even the respondent/plaintiff has not produced the parent document, on the other hand, the defendant has produced the parent document. While filing the counter in I.A.Nos.429 to 431 of 2017 that document was marked. Subsequently, he came to know that the document filed along with I.A.Nos.429 to 431 of 2017 was omitted to be marked during trial inadvertently. Therefore, he filed the petitions to recall and reopen the case. The trial Court failed to consider the scope of the applications for the reason of filing it when the document is already on file. Therefore, the orders passed by the trial Court are liable to be set aside.

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3. Heard the learned counsel for the petitioner and perused the materials placed before the Court.

4. The suit is filed in the year 2013. The petitioner has not taken any effective steps either during trial or at least at the stage of argument. But only after completing the trial and arguments, when the case was reserved for judgment, the petitioner has come forward with the applications.

5. The learned counsel for the petitioner submitted that argument was not even commenced at the time of filing the applications. However, on reading of the orders would go to show that the matter was posted for judgment and at that stage, he filed the applications. The petitions were filed very belatedly, that too when the matter was reserved for judgment. The trial Court has also given reason for dismissal of the applications. Further, there is no dispute regarding the stage of the suit. In the suit, trial completed and arguments also completed. Though the petitioner submitted that argument was not even commenced at the time of filing applications, on reading of the orders shows that even after giving opportunity on several times, the case was posted under the caption for judgment and thereafter only he filed the said petitions. Therefore, it is only to drag on the proceedings, he filed the applications. Further, even after filing the present Civil Revision Petitions, the same are pending for more than three years and the petitioner has not taken any effective steps even to get an order of stay or to dispose of the cases. Therefore, this Court is of the view that only to drag on the proceedings and postponement of the judgment, he filed the petitions and no other valid reason has been given by the petitioner. Under these circumstances, this Court does not find any perversity in the order passed by the trial Court. There is no merit in the revision petitions and the same are dismissed as devoid of merits. No costs. Consequently, CMP (MD) No.11375 of 2017 is closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar (CS)

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CRP (MD)Nos.2380 to 2382 of 2017

The Principal Sub Court, Kumbakonam

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+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-11090[F] dated 11/03/2020)

CRP (MD)Nos.2380 to 2382 of 2017
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