



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 05.06.2020
CORAM**

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD) .Nos.2179 & 2180 of 2019
and

CM.P. (MD) .Nos.11388 & 11389 of 2019

Madasamy

... Petitioner in both
revision petitions/1st Defendant

Vs.

1.Maranadu
2.Mohan

... Respondents in both
revision petitions / Respondents / Plaintiffs

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of Constitution of India to set aside the fair and decreetal orders dated 12.09.2019 passed in I.A.Nos.421 and 422 of 2019 in O.S.No.29 of 2019 on the file of the learned Subordinate Judge, Melur.

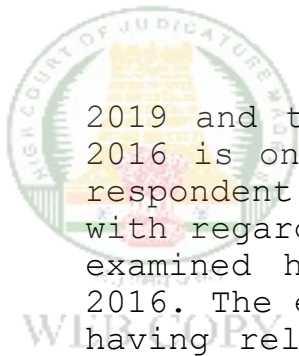
In both revisions

For Petitioner : Mr.Niranjan S.Kumar
For Respondents : Mr.R.J.Karthick

C O M M O N O R D E R

The petitioner herein is the first defendant in O.S.No.29 of 2019 on the file of the Subordinate Judge, Melur. The respondents are the plaintiffs in the above said suit. In the said suit, after framing of issues, the trial was commenced where the respondents' side evidence was completed. At that time, the petitioner herein filed the Interlocutory Applications in I.A.Nos. 421 and 422 of 2019 under Order 18 Rule 17 and Section 151 of Code of Civil Procedure to recall the witness of P.W.1 and to reopen the trial. The said petitions were dismissed. Challenging the said orders, the revision petitioner has filed the present revision petitions before this Court.

2.The learned counsel for the petitioner would submit that regarding the revenue record and also the patta, there is a dispute. The subject property of the suit in O.S.No.166 of 2012, O.S.No.29 of



2019 and the subject matter of the criminal case in C.C.No.105 of 2016 is one and the same. He would further submit that the second respondent herein examined himself as P.W.1 in O.S.No.29 of 2019 with regard to the suit property and the very same second respondent examined himself as P.W.1 in the criminal case in C.C.No.105 of 2016. The evidence given in the civil case and the criminal case is having relevancy. Hence, the evidence of the second respondent in criminal case is very essential in O.S.No.29 of 2019 to find out the real truth. Therefore, in order to elucidate the contradictions made by the witness in both proceedings, the petitioner wanted to recall the witness of P.W.1 and to reopen the trial. But, without considering the scope of the petitions, the learned Subordinate Judge, Melur has dismissed the petitions. In order to elucidate the different stand taken by the very same witness in preliminary proceedings, the order passed by the trial Court ought to be set aside. Hence, the learned counsel for the petitioner would pray before this Court to allow these revisions.

3.Per contra, the learned counsel for the respondents would submit that the suit itself filed in the year 2011 and then, in the year 2018 itself, the witnesses were examined. Due to land grabbing, the criminal case was filed where the prosecution examined the witnesses. Only to drag on the proceedings in the civil suit, the petitioner has filed I.A.Nos.421 and 422 of 2019 before the learned Subordinate Judge, Melur to recall the witness and to reopen the trial and the same cannot be allowed for the reason assigned in the affidavit. He would further submit that the trial Judge has rightly dismissed the petitions and there is no merit in the revisions. Hence, he prays to dismiss these revision petitions.

4.Heard the learned counsel appearing for the petitioner as well as the respondents and perused the materials available on record.

5.Admittedly, the petitioner is the first defendant in O.S.No.29 of 2019 on the file of the Subordinate Judge, Melur wherein the respondents are the plaintiffs. Now, after commencement of trial and examining both side evidence, the petitioner has filed the above said Interlocutory Applications under Order 18 Rule 17 and Section 151 of C.P.C to reopen the trial and to recall the witness of P.W.1 to elucidate the contradictions made by the witness in the criminal proceedings. This is the only reason has been assigned to reopen the trial and to recall the witness of P.W.1. The deposition made in the criminal case cannot be marked and the same cannot be produced before the Civil Court. The learned counsel for the petitioner wanted to elucidate the contradictions made by the witness in civil suit and another in the criminal case. The civil suit is only based on the documentary evidence and the crux of the case is only whether the document has been impersonated or not, for this purpose, the trial need not be reopened and witness need not be



entirely different and the scope of the civil proceedings is entirely different.

6. Considering the facts and circumstances of the case, this Court does not find any perversity in the order passed by the learned Subordinate Judge, Melur in dismissing the applications in I.A.Nos.421 and 422 of 2019 and there is no merit in these Civil Revision Petitions. Accordingly, these revisions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Subordinate Judge
Melur.

C.R.P. (MD) .Nos.2179 & 2180 of 2019
and
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