

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.(PD)Nos.179 & 180 of 2019
&
CMP No.1451 of 2019

S.Sureskumar

... Petitioner/Petitioner/Defendant in
both CRPs

Vs

1.K.Thangavel
2.T.Srinivasan

... Respondents/Respondents/Plaintiffs

C.R.P.No179 of 2019: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 06.07.2018 made in I.A.No 70 of 2018 in O.S.No.353 of 2012 on the file of the learned Principal District Munsif Court, Tiruchengode by allowing the Civil Revision Petition.

C.R.P.No180 of 2019: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 06.07.2018 made in I.A.No 71 of 2018 in O.S.No.353 of 2012 on the file of the learned Principal District Munsif Court, Tiruchengode by allowing the Civil Revision Petition.

For Petitioner .. Mr.N.Manokaran

For Respondent .. No appearance

COMMON ORDER

This revision has been filed by the defendant in O.S.No.353 of 2012 who filed I.A.No.17 of 2018 seeking to re-open the evidence of the plaintiffs and recall PW1 for further cross-examination.

2. The suit is now pending for the past nearly 10 years. At least, fortunately, trial has commenced. Witness of the plaintiff had been examined in chief and thereafter, as seen from the order now impugned, cross-examined and a further witness was also examined on behalf of the plaintiffs. The matter was posted for examination of witnesses on the side of the defendant. I am informed that proof affidavit has been filed. At that particular point of time, these applications came to be filed to re-open the evidence of the plaintiffs and to recall PW1 for the purpose of putting further questions in cross-examination. The other application to reopen the evidence is I.A.No.71 of 2018.

3. Both these applications came up for consideration and by order dated 06.07.2018, the learned Principal District Munsif, Tiruchengode, holding that they were attempts to protract the trial proceedings, dismissed both these applications. It had been stated that no sufficient

cause has been shown for recalling PW1. It had also been stated that reasons had not been assigned in the affidavit as to why the evidence should be reopened and PW1 should be recalled.

4. Notice had been directed in the revision petition to the respondents as early as 24.01.2019. Notice had been served and names were printed. I am informed that the learned counsel for the respondents in the trial court has also informed about the pendency of the revision petition.

5. Effectively, by way of pendency of these two revision petitions, conclusion of the trial in the suit had been put off by another 3 years from 2018 to 2021. This has benefited neither the plaintiffs nor the defendant.

6. Therefore, without going into the merits, I would rather give a time limit for disposal of the suit itself. The order under revision is set aside and opportunity is granted to the revision petitioner/defendant to further cross-examine PW1. It is to be noted that any trial court is a court of first instance where facts are asserted and some latitude should be

granted by trial judges to the parties to put forth all facts they want to state either by way of examination in chief or extracted in cross examination from the mouth of the witnesses. The following directions are issued with respect to further flow of trial in O.S.No.853 of 2012:

(i) In view of the order passed in I.A.No.70 of 2018 and 71 of 2018, the learned Judge may post the same for further cross-examination of PW1 and ensure that it is completed by the defendant. The learned District Munsif may not adjournment of grant more than three working days in between two hearing dates. Further cross-examination of PW1 is to be concluded on the said manner.

(ii) After cross examination of PW1, the defendants and to let in evidence and evidence should be recorded on a day to day basis and even if it is not practically possible, the learned Judge may ensure that only three working days are granted in between any two adjournments. Further not more than two adjournments can be

granted for same reason.

7. I understand that by this procedure, the plaintiffs would be put to much strain since the plaintiffs have to cross-examine the witnesses for the defendants at least continuously within a gap of three working days, but since the suit was filed by the plaintiffs and is pending for more than a decade, following the said procedure would ensure that the suit will cross the District Munsif Court within a short period of time. At any rate, the suit is to be disposed of on or before 30.09.2021.

8. With the said observations, these Civil Revision Petitions are disposed of. No order as to costs. Consequently, connected miscellaneous petition is closed.

12.07.2021

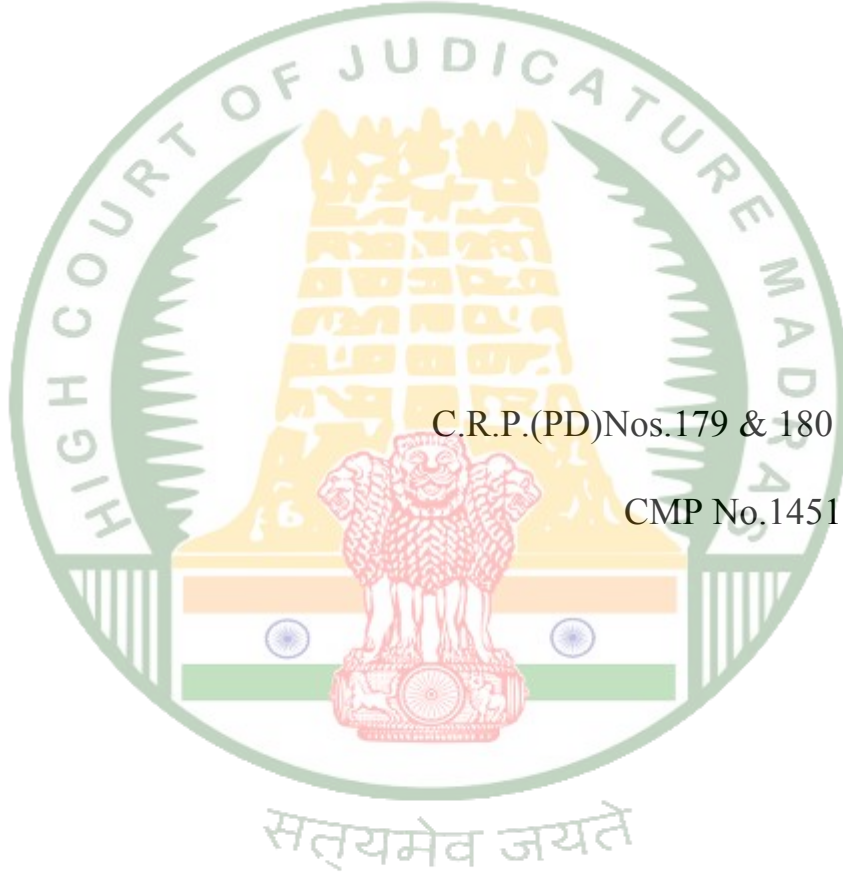
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C.V.KARTHIKEYAN,J.

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To
The District Munsif Court,
Tiruchengode



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