

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD).Nos.1636, 1637 of 2018
and C.M.P.No.8822 of 2018

Senthilraja

... Petitioner in both cases

Vs

1.Kandasamy
2.Thavamani
3.Priya
4.Sathishkumar
5.The Sub Registrar,
Tiruchengode Sub Registrar Office,
Tiruchengode, Namakkal District.

... Respondents in both cases

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 04.04.2018 made in I.A.Nos.187, 188 of 2018 in O.S.No.291 of 2010 on the file of the learned Sub Court, Tiruchengode.

For Petitioner : Mr.N.Manokaran in both cases

For Respondent : M/s.R.Marudhachala Moorthy
for R2 to R4 in both cases

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decreetal order dated 04.04.2018 made in I.A.Nos.187, 188 of 2018 in O.S.No.291 of 2010 on the file of the learned Sub Court, Tiruchengode, thereby dismissing the petitioner to reopen and recall of P.W.2.

2. The petitioner is the plaintiff and the respondents are the defendants in the suit. The petitioner filed a suit for partition. The petitioner was examined as P.W.1 and he was cross examined on 27.11.2013. Thereafter, the matter was posted for further evidence of plaintiff on various occasions. Even then the petitioner failed to examine any other witnesses on his side. Thereafter, the suit was posted for defendants side evidence and after examining the defendants their evidence also closed on 03.10.2016. Thereafter, the suit was posted for arguments.

3. At that juncture, the petitioner filed I.A.No.199 of 2017 for permitting him to examine another witness as P.W.2 and the same was allowed. Thereafter, his chief examination was over and posted the suit for cross examination of P.W.2. On several occasions the suit was adjourned for cross examination of P.W.2. Even then the P.W.2 was not appear before the trial Court. Therefore, his evidence was closed and suit was posted for arguments.

4. Again the petitioner filed I.A.No.891 of 2017 for reopen and recall of P.W.2 and the same was allowed and posted the suit for cross examination of P.W.2. After allowing the said petition, the suit was posted on 15.11.2017, 22.11.2017, 06.12.2017 and 18.12.2017 for cross examination of P.W.2. On all hearings the P.W.2 was absent and finally it was posted on 19.01.2018 for cross examination, on that date also P.W.2 was absent and as such the evidence was closed and posted the suit for arguments.

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rna

5. At that juncture, again the petitioner filed an application to reopen and recall the evidence of P.W.2 and the same was dismissed. Therefore, it shows the attitude of the petitioner and only to drag the suit. Therefore, the trial Court has rightly dismissed the petition and this Court finds no infirmity or irregularity in the order passed by the Court below.

6. Accordingly, these Civil Revision Petitions are dismissed. The suit is of the year 2010, the trial Court is directed to dispose the suit **six months** from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

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Internet: Yes
Index: Yes/No
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To

The Sub Court,
Tiruchengode.

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