

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD).Nos.2395, 2396 of 2018
and C.M.P.No.14778 of 2018

1.Kanagambujam
2.Ilanchezhiyan
3.Ilayaraja

... Petitioners in both CRP's

Vs

Jayalakshmi (Died)

1.Kannabai
2.Rajagopal
3.Gunasekaran
4.Amirtharaj

... Respondents in both CRP's

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, against the Fair and Decreetal order in I.A.Nos.490, 491 of 2018 in O.S.No.453 of 2011 dated 12.04.2018, on the file of Principal District Munsif, Puducherry.

For Petitioners : Mr.V.Raghavachari in both CRP's

For Respondents : No Appearance in both CRP's

COMMON ORDER

These Civil Revision Petitions are filed against a Fair and Decretal order in I.A.Nos.490, 491 of 2018 in O.S.No.453 of 2011 dated 12.04.2018, on the file of Principal District Munsif, Puducherry, thereby dismissing the petition to reopen and recall of P.W.1.

2. In both the Civil Revision Petitions, the petitioners are the defendants and the respondents are the plaintiffs. The respondents filed the suit for bare injunction in respect of suit property. When the P.W.1 was called for cross examination, the third defendant was adopted by the first and second defendants. The third defendant is an Advocate, he appeared on behalf of himself and also on behalf of the first and second defendants. Therefore, the cross examination of third defendant was adopted by the respondents 1 and 2.

3. At that juncture, when P.W.1 was called for cross examination on 16.02.2018, the third defendant was also very much present and failed to cross examine the P.W.1. Therefore, the evidence of plaintiff was closed on that date itself. Thereafter, the petitioners filed the petition to reopen and recall of P.W.1 for further cross examination on behalf of the respondents 1 and 2 herein. However, the Court below dismissed the petition on the ground that the present petition has been filed to drag the proceedings.

4. Further, the petitioners had not stated any valid reason for non cross examination of P.W.1 by the other defendants. Admittedly, the first and second defendants had not cross examined the P.W.1. The third defendant is an Advocate, he only cross examined the P.W.1. Therefore, the petitioners 1 and 2 may give one more opportunity to cross examine the P.W.1 on payment of costs.

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5. Accordingly, the order in I.A.Nos.490, 491 of 2018 in O.S.No.453 of 2011 dated 12.04.2018, on the file of Principal District Munsif, Puducherry is set aside and this Civil Revision Petitions are allowed. The

trial Court is directed to fix a date of cross examination of P.W.1 and the petitioners are permitted to cross examine the P.W.1 on the date fixed by the trial Court on payment of Rs.5,000/- (Rupees Five Thousand only) as costs to the P.W.1 directly. If the petitioners failed to cross examine the P.W.1 on the date fixed by the trial Court, the trial Court directed to dispose of the suit within a period of **six months** from the date of receipt of a copy of this order on merits in accordance with law. Consequently, the connected miscellaneous petition is closed.

30.04.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
rna

To

The Principal District Munsif,
Puducherry.

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G.K.ILANTHIRAIYAN. J,

rna



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