



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP Nos.2694 & 2695 of 2021  
and  
CMP No.19803 of 2021

Nagarani ... Petitioner in both CRPs  
Vs

Palani ... Respondent in both CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India against the common order and decretal order dated 29.09.2021 and made in I.A.Nos.05 and 06 of 2021 in O.S.No.34/2018 respectively on the file of the Sub-ordinate Judge, Uthangarai.

(In all CRPs)  
For Petitioner : Mr.M.Selvam

COMMON ORDER

The plaintiff in O.S.No.34 of 2018 is on revision. Challenge is to the orders of the trial Court, dismissing her application to reopen her evidence and to recall herself for letting in further evidence. The suit is one for specific performance of an agreement of sale dated 09.01.2015. The suit was filed in the year 2018. The plaintiff had let in evidence and her evidence was closed on 09.11.2020. Thereafter, the defendant had let in evidence. The defendant evidence was also closed and the suit was posted for arguments on 20.01.2021.

2.It is at that stage, the petitioner filed three applications in I.A.Nos.2, 3 and 4 of 2021 for receiving the additional documents and to reopen the case and recall of PW1. All the three applications were allowed on 18.03.2021. The case was posted for evidence from 24.03.2021 to 04.08.2021. During the entire period, except for two hearings, the plaintiff was not present. Therefore, on 04.08.2021, the trial Court closed her



evidence and posted the suit for arguments.

3.The plaintiff has now come up with these two applications seeking to reopen and recall. Even earlier, the plaintiff did not co-operate with the trial. The trial commenced on 26.08.2019 and the evidence of the plaintiff was closed on 09.11.2020. The defendants evidence was closed on 20.01.2021 and the suit was posted for arguments on 25.01.2021, 01.02.2021 and 04.02.2021. It is at this stage, the plaintiff came up with the three applications, which were allowed after contest. The plaintiff did not take advantage of the order, but she attempted to drag on the proceedings further by remaining absent.

4.The power under Order 18 Rule 17 of CPC to reopen and recall a witness is available to the Court at any time. But at the same time, the process of the Court cannot be subverted. I am of the considered opinion that this is the case where the plaintiff's attempt is clearly an abuse of process of Court. I therefore do not see any error on the part of the trial Court when it rejected the applications.

5.Hence, these Revisions fail and they are accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

vs

To:

1.The Subordinate Judge,  
Uthangarai.

2.The Section Officer,  
VR Section,  
Madras High Court, Chennai.

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MG(CO)  
CB(22/12/2021)