



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.06.2021

PRONOUNCED ON :12.07.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP (MD)No.595 and 596 of 2014

(Through Video Conferencing)

Bhuvaneswari

Petitioner in both cases

Vs

Chandra

Respondent in both cases

Prayer:- These Civil Revision Petition have been filed, against the fair and decreetal order, dated 20.12.2013, made IA.Nos.989 and 990 of 2013 in OS.No.196 of 2005, by the District Munsif Court, Musiri.

For Petitioner : Mr.P.Thirumahilmaran

For Respondent : Mr.S.Ramesh

ORDER

- 1.These Civil Revision Petition have been filed, against the fair and decreetal order, dated 20.12.2013, made IA.Nos.989 and 990 of 2013 in OS.No.196 of 2005, by the District Munsif Court, Musiri.
- 2.The facts of the case, in a nutshell, are that the Defendant is the Petitioner and the Respondent is the Plaintiff. The above suit was filed for permanent injunction and costs. The Defendant had also filed a suit in OS.No.35 of 2006 against the Plaintiff and one Raman. The Defendant had filed the above applications in the present suit, seeking to reopen the Defendant' side evidence and to examine the said Raman, the 2nd Defendant in the other suit, as a court witness. Since the said applications were dismissed, by the impugned orders, these Civil Revision Petitions have been filed.
- 3.The learned counsel for the Petitioner has submitted that joint trial of the present suit and OS.No.35 of 2006 was ordered and that since the said Raman, who is the 2nd Defendant in the other suit did not come to court to give evidence, the evidence had been closed and that since the said Raman has denied the sale deed in



question, it has become necessary for the Defendant, to examine the said Raman as a court witness to establish her case and hence, the court below ought to have allowed the applications.

4. The learned counsel for the Respondent has submitted that when the evidence on the side of the Defendant was closed, the Defendant cannot compel the said witness to give evidence as she has no right to reopen the same and that the court below is justified in dismissing the applications, refusing to reopen the evidence and to examine the said Raman, as a court witness, by the impugned order.
5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
6. The present suit was filed for permanent injunction and costs. The Defendant in the present suit had also filed a suit in OS.No.35 of 2006 against the Defendants 1 and 2, the Plaintiff in the present suit and one Raman, respectively. The said Raman had resisted the other suit, by filing a written statement. Both the suits were taken for joint trial and the evidence on both sides was closed. It is at this stage, the 2nd Defendant in the other suit is sought to be examined as a court witness.
7. It is also settled proposition of law that a Plaintiff cannot compel a Defendant to enter into the witness box and to give evidence and it is for a Plaintiff to prove his case on his own footing and not by way examining the other side. In this case, the court below, relying on the decisions of the High Court, has held that the Plaintiff cannot compel the 2nd Defendant to depose evidence, who is contesting against him, that too when the evidence on both sides in both the suits was completed and accordingly, dismissed the applications, by the impugned orders, which, in the opinion of this Court, do not suffer from any infirmity or illegality, warranting interference by this Court.
8. In fine, these Civil Revision Petition are dismissed. No costs.

Sd/-

Assistant Registrar(CS-)

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/ /2021

Sub Assistant Registrar(CS)

Srcm



To

1.The District Munsif, Musiri.

+1 CC to M/s.V.RAGAVACHARI, Advocate (SR-22153[F] dated
12/07/2021)

Order in
CRP (MD) No.595 and 596 of 2014
12.07.2021

KMK (CO)
TR (19.07.2021) 3P 3C