



C.R.P.No.3354 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 19.10.2022

PRONOUNCED ON : 27.10.2022

CORAM

THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P. No.3354 of 2022

Coimbatore District Banian
Labours Progressive Union
Rep. By its Secretary
K.Ramakrishnan
S/o.Karuppasamy
Old No.279, New no.19
Kumaran Road,
Tiruppur

... Petitioners / Plaintiff/Petitioner

.Vs.

1. Mrs.R.Suguna Devi

2. M.Senthamil Selvan

...Respondent /Respondent / Defendant

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records of the Lower Court and set aside the order and decreetal order dated 30.11.2021 in I.A.No.277 of 2021 in O.S.No.403 of 2007 by the Principal District Munsif.

For Petitioner : Mr.S.N.Amarnath



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ORDER

This Civil Revision petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to recall DW1 and allow further cross-examination.

2. The plaintiff in the suit is the revision petitioner. The suit is filed for cancellation of decree obtained by the 1st respondent in O.S.No.61 of 2004 on the file of the same Court and also for permanent injunction. The suit is of the year 2007. In the affidavit filed in support of this petition seeking reopen and recall of DW1, the petitioner had stated that when the 1st defendant was examined as DW1, the then Presiding officer of the Court curtailed the cross-examination. It was also stated that the Court allowed unwanted explanation by the witness while answering the questions inspite of the objection by the petitioner. It was also specifically stated that the evidence was closed by Court suo-motu and the matter was posted for arguments. The said application was resisted by the 1st respondent by filing a counter wherein it was stated that the suit had been pending from the year 2007 and the parties were senior citizens. It was also stated that the petitioner had filed this application just to protract the proceedings without any



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justifiable cause for reopening of the case.

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3. The Court below in the impugned order specifically recorded that on perusal of case papers it was found that the counsel for the petitioner and the respondent made an endorsement that evidence was closed. The Court below in the impugned order also recorded that DW1 was cross-examined extensively by the revision petitioners on 24.07.2018 and 06.09.2018. It was also mentioned that in between these dates several adjournments were given to petitioner for cross-examination. Therefore, it is clear the averments made in the affidavit filed in support of the petition seeking reopen and recall of the witness are not correct. The revision petitioner specifically stated in his affidavit that DW1 was cross examined only in part and without giving opportunity to cross-examine him in full, the evidence of DW1 was closed. However, the Court below on persual of the case records found that the evidence was closed based on the endorsement made by Counsel for both sides. It also appears DW1 was cross-examined extensively by the revision petitioners on two dates 24.07.2018 and 06.09.2018. The cross-examination on 06.09.2018 was done by revision petitioners after seeking several adjournments. Having regard to the fact that



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the Trial is already over and the matter is posted for arguments of the parties and also the fact, the suit is of the year 2007, this Court is not inclined to interfere with the order passed by the Court below. Therefore, the Civil Revision petition stands dismissed. No costs.

27.10.2022

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Internet
Index:Yes/No
Speaking Order: Yes/No



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S.SOUNTHAR.J.,

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To

The Principal District Munsif, Thiruppur

**Pre-Delivery order in
C.R.P.No.3354 of 2022**

27.10.2022