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CRP(PD)Nos.661, 662 & 663/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)Nos.661, 662 & 663 of 2022
& CMP.Nos.3407 of 2022

Mr.A.R.Inayathullah

... Petitioner in all CRPs

Vs.

1.Mrs.A.Fathima

2.The Chief Executive Officer,
Cantonment Board,
St.Thomas Mount,
Chennai - 600 016.

... Respondents in all CRPs

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 17.12.2021 in I.A.Nos.1058, 1059 & 1060 of 2019 in O.S.No.591 of 2012 passed by the learned Principal District Munsif, Alandur, Chengalpet District and thereby allow the above Civil Revision Petitions.

For Petitioner	:	Mr.R.Abdul Mubeen
For R1	:	Mr.M.L.Ganesh
For R2	:	Mr.P.Harish,
		Government Advocate



ORDER

The plaintiff in O.S.No.591 of 2012, now pending adjudication on the file of the Principal District Munsif, Alandur, Chengalpet District, has come forward with this batch of Writ Petitions.

2.The facts may be briefly stated; the plaintiff has laid a suit for bare injunction and the allegation in the plaint appears to be that a certain passage which lies to the west of the plaintiff's property is a private passage but, the first defendant, who is on the other side claims that it is a common passage and proceeded to put up a construction overhanging the said passage. Besides the first defendant, the Chief Executive Officer of the Cantonment Board was also arrayed as the second defendant. The second defendant however, chose to remain ex-parte.

3.The matter went to trial and during trial, the plaintiff examined himself as P.W.1. Thereafter, he took out I.A.No.536 of 2019 to summon the second defendant to tender evidence vis-a-vis the character of the passage in question. He had also taken out another I.A.No.702 of 2019, which is



presumably for summoning certain documents. They came to be dismissed by the trial Court on the ground that the certified copies of the documents now sought to be produced through the second defendant can be made available. Subsequently, the plaintiff has approached the concerned Authority for obtaining certified copies of the documents, which the plaintiff required. These documents are accordingly obtained.

4.Now, the plaintiff would file I.A.No.1058 of 2019 for reopening P.W.1, I.A.No.1059 of 2019 for recalling of P.W.1 and I.A.No.1060 of 2019 for production of certified copies of the documents under Order 7 Rule 14(3) CPC. They have been dismissed by the trial Court and hence, these batch of Civil Revision Petitions.

5.The trial Court has taken a view that since the filing of these Applications, the plaintiff has been far too indifferent in prosecuting the same.

6.Heard both sides.



7.The learned counsel for the petitioner submitted that the pandemic days have eaten into the opportunity that the plaintiff might have had to prosecute the case and that should not be counted against the plaintiff and prayed for procedural facility to present his best evidence to sustain his cause of action.

8.This Court will appreciate the anxiety of the trial Court not to stay over any litigation, yet, it still requires that the trial Court understands that as the Court of first instance, it is under an obligation to extend procedural facility to let the party produce the best evidence.

9.So far as the present Civil Revision Petition is concerned, this Court is satisfied that when once the Court directed the plaintiff to produce certified copies of the documents, it is necessary for it to allow the plaintiff to produce the same in evidence. In conclusion, all the Civil Revision Petitions are allowed and the impugned orders passed by the trial Court in I.A.Nos.1058, 1059 and 1060 of 2019 are set aside. No costs. Consequently, the connected miscellaneous petition is closed.



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10. The trial Court is now directed to expedite the process of trial, since the matter is in its tenth year of its institution and to complete the trial of the suit within a period of four (4) months, excluding the intervening summer recess 2022.

05.04.2022

Index : Yes/No
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Note: Issue order copy on 06.04.2022

To

The Principal District Munsif,
Alandur, Chengalpet District.



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N.SESHASAYEE, J.,

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