



Crp(pd).No.2162 & 2163 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **18.04.2022**

CORAM :

THE HONOURABLE MR.JUSTICE **S.SOUNTHAR**

C.R.P.(PD) Nos. 2162 & 2163 of 2016
and CMP.No.11234 of 2016

C.R.Ramasamy Reddy

... Petitioner in both CRPs.

vs.

1.Narayana Reddy

2. Pappi Reddy

... Respondents in both CRPs.

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, as against the order and decreetal order in I.A.Nos.618 & 619 of 2015 in O.S.No.281 of 2006 on the file of the District Munsif-cum-Judicial Magistrate No.1, Hosur dated 23.03.2016.

For Petitioner : Ms.R.Poornima
[in both CRPs.]

For Respondents : No appearance
[in both CRPs.]

COMMON ORDER

Aggrieved by an order dismissing the applications to reopen the case and to recall P.W.1, the plaintiff has come by way of these Revision Petitions.



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2. The petitioner filed a suit for declaration and injunction in

O.S.No.281 of 2006 on the file of the District Munsif-cum-Judicial Magistrate No.1, Hosur. In this case, admittedly, the trial was over and the matter was posted for arguments on 01.07.2015. At that stage, the plaintiff/revision petitioner filed two applications in I.A.Nos.618 & 619 of 2015 to reopen and to recall P.W.1. In support of these applications, the plaintiff had filed an affidavit, wherein it was stated that defendants had examined one Subbamma as D.W.2 and she had deposed that she sold the suit property bearing S.No.759/3 to the father of the defendants. According to the revision petitioner, the said Subbamma had no title to convey the property in S.No.759/3, therefore in order to prove that, the plaintiff wanted to produce certain documents and for that purpose, the plaintiff sought for reopen and recall of P.W.1.

3. The said applications were opposed by the respondents by filing counter, wherein they had stated that the suit was posted for arguments on 24.07.2015 and the petitioner took several adjournments and finally the suit was posted for arguments on 25.01.2016. The revision petitioner has filed this application after getting adjournments for more than six months and hence there is no bonafide on the part of the petitioner in seeking recall of P.W.1.



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4. The trial Court after hearing both the parties observed that trial in the matter was already over, the suit was posted for arguments on 01.07.2015 and finding no merit in the request of the revision petitioner, dismissed the petition.

5. Aggrieved by that, the present revision petition is filed by the revision petitioner.

6. Heard the arguments of Ms.R.Poornima, learned counsel for the revision petitioner. Though the respondents are served, there is no representation for the respondents when the matter was called.

7. From the records, it is very clear that applications for reopen and recall of P.W.1 was filed at the time of arguments, that too, after seeking several adjournments for more than six months. According to the petitioner, they wanted to produce certain documents to show that vendor of defendants viz., Subbamma, who was examined as D.W.2 had no title to convey any property in favour of the defendants.

8. The main suit is for declaration and injunction. It is settled law



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that in a suit for declaration, the plaintiff has to win or lose at his own strength and he cannot rely on the weakness of the defendants' case. It is not for the plaintiff to prove or disprove the title of the defendants' vendor. If the defendants want to create any cloud over the right of the plaintiff, it is for them to produce necessary documents to prove their vendor's title. The plaintiff need not produce any documents to prove or disprove the vendor's title of the defendants. Hence the reasoning found in the affidavit filed in support of the petition to reopen and to recall of P.W.1, on the face it, appears to be unreasonable and unwarranted. It is unnecessary to recall P.W.1 as it could not serve any purpose in favour of plaintiff. Having regard to the conduct of the plaintiff in filing this application at the time of arguments and after seeking several adjournments, finding no irregularity or illegality in the order impugned in these revisions, the orders dismissing the petition to reopen the case and to recall P.W.1 are confirmed and the Civil Revision petitions stand dismissed. No costs. Connected miscellaneous petition is closed.

18.04.2022

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

1. District Munsif-cum-Judicial Magistrate No.1,
Hosur
2. The Section Officer,
V.R. Section,
High Court of Madras.



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S.SOUNTHAR, J.

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