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C.R.P. (PD) No.1592 of 2022
and C.M.P. No.8006 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.1592 of 2022
and C.M.P. No.8006 of 2022

Palanisamy (Died)

1.Hemalatha

2.Subbulakshmi

...

Petitioners /
Defendants 2 & 3

versus

1.Radhidevi

...

1st Respondent /
Plaintiff

2.Kathiresan

...

2nd Respondent /
4th defendant

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.03.2022 made in I.A.No.1420 of 2021 in O.S.No.275 of 2010 on the file of the learned District Munsif, Dharapuram by allowing this petition.

For Petitioners : Mr.N.Ponraj
For Respondent No.1 : Mr.R.Asokan
For Respondent No.2 : No Appearance



ORDER

This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Dharapuram, dated 04.03.2022 made in I.A.No.1420 of 2021 in O.S.No.275 of 2010.

2. The revision petitioners are the defendants 2 and 3 against whom the first respondent/plaintiff filed the suit for declaration and permanent injunction. During the pendency of the suit, this revision petitioners filed a petition in I.A.No.1420 of 2021 for reopening the case in order to let their evidence and the same was dismissed. Aggrieved over that, the defendants 2 and 3 have filed this Civil Revision Petition.

3. The learned counsel for the petitioners submitted that since the petitioners have certain valid points in the case and that has to be proved only through their oral evidence and that an opportunity ought to have been given to them by taking a liberal view; the revision petitioners were absent for certain hearings only because of the settlement talks held between the parties and it was not wanton.



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4. The learned counsel for the first respondent submitted that the revision petitioners are in the habit of filing repeated petitions and thereafter not making their appearances and causing unnecessary delay to the proceedings. The petitioners did not make use of the opportunity given to them and the order need not be reversed.

5. On perusal of the order of the learned trial Judge, it is seen that the matter was posted for defendants' side evidence from 06.03.2019 to 17.10.2019 and it has been adjourned for 8 hearings within the said time. Only on 17.10.2019, the Court had chosen to close the defendants' side evidence; immediately, the 4th defendant has filed the petition to reopen his side of evidence in I.A.No.86 of 2019 and that was also allowed. Again these petitioners had also filed the present petition on 14.03.2020 to reopen their side evidence.

6. The learned trial Judge was lenient enough to allow both the petitions and thereafter the case was posted for defendants' side evidence for 8 more hearings but the revision petitioners did not make use



of the opportunity and examine themselves promptly. In view of the same, the Court had once again closed the defendants' side evidence on 10.08.2021. Again on 06.12.2021 the revision petitioners have filed the impugned petition to reopen the proceedings and that was dismissed.

7. The revision petitioners cannot deny the observations of the learned trial Judge and their conduct in not utilising the more than sufficient opportunities given to them to let their evidence. They had lavishly gained the time for no purpose. Now, it is submitted that in the interest of justice an opportunity should be given. The delay caused by the petitioners would have affected the interest of other side, who was made to wait so long to see the end of the trial. It is seen that the matter is in the stage of arguments. Just in order to take a pragmatic approach, I feel that the Civil Revision Petition should be allowed on payment of costs.

8. In the result, this Civil Revision Petition is allowed. The order dated 04.03.2022 passed by the learned District Munsif, Dharapuram, in I.A.No.1420 of 2021 in O.S.No.275 of 2010 is set aside and the petition



in I.A.No.1420 of 2021 is allowed on payment of costs of Rs.7,500/-
[Rupees Seven Thousand Five Hundred only] to the first
respondent/plaintiff within a period of two weeks from the date of receipt of
a copy of this order, failing which the petition will stand automatically
dismissed. In the event of the petition is allowed by complying the
condition, the revision petitioners are directed to make their appearances
before the learned trial Judge for letting their evidence on **22.07.2022**. The
learned trial Judge is impressed to dispose the matter as expeditiously as
possible. Consequently, connected Miscellaneous Petition is closed.
However, there is no order as to costs.

06.07.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

Note : Issue Order Copy on 07.07.2022

sri

To

The District Munsif, Dharapuram.

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R.N.MANJULA, J.

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