



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.1788 of 2022

and

C.M.P.No.9047 of 2022

M.Vijayakumar

... Petitioner

Vs.

1.D.Selvaraji

2.Sivaganesan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in A – diary extract I.A.SR.No.2577/2022 in O.S.No.73/2018 dated 23.04.2022 on the file of the Sub-Court, Tambaram.

For Petitioner : Mr.S.Sairaman

For R1 : Mr.V.Vijayakumar

For R2 : No Such Addressee



ORDER

The Civil Revision Petition is filed against the Docket order in I.A.SR.No.2577/2022 in O.S.No.73/2018 dated 23.04.2022 on the file of the Sub-Court, Tambaram.

2. The impugned docket order dated 23.04.2022 reveals that the Interlocutory Application filed by the revision petitioner was held as not maintainable, since a similar petition was already filed by the revision petitioner, which was allowed on 05.03.2022 on a condition to complete all the defence witness on 14.03.2022. In spite of the opportunity granted to the revision petitioner / defendants, he failed and not interested to produce any witnesses. Thus, the subsequent Interlocutory Application was held as not maintainable.

3. The revision petitioner is the defendant in the Suit. The respondent instituted the Suit for recovery of possession. The Suit is pending for the past about 4 years. Issues were framed and the Suit was posted for evidence. The plaintiff side evidence was completed on 18.08.2021. The Suit was posed for examination of defendants side witnesses. However, the defendant



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had not availed the opportunity for examination of their witnesses and in order to prolong and protract the Suit, a petition was filed under Section 10 of C.P.C., for stay of the Suit on the ground that the Second Appeal in respect of other issues are pending before this Court. Even thereafter, the defendant has not produced the witness for examination. Thus, the defendants side examination was closed on 15.09.2021 and it was further posted on 20.09.2021 for arguments. After listing the matter for arguments the revision petitioner / defendant filed an Interlocutory Application in I.A.No.1 of 2022. The said Interlocutory Application for reopening of defendants side evidence was allowed by the Trial Court on condition that the defendant should not seek any further time and complete his side evidence on 14.03.2022. The defendants had not availed the said further opportunity granted by the Trial Court for examination of defendants side witnesses and again filed another Interlocutory Application to reopen the defendants side witnesses. When a similar Interlocutory Application was filed for the second time, the Trial Court returned the same as not maintainable.



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4. The idea of prolonging and protracting the Civil Suit at no circumstances be encouraged by the Courts. The parties to the Suit are expected to establish their respective cases vigilantly by availing the opportunity to be provided by the Trial Court. Any party attempting to drag the proceedings is not entitled to get any leniency from the hands of the Court.

5. In the present case, the Suit was originally listed for examination of defendants side witnesses after closure of the plaintiff side witnesses. The defendants had not availed the said opportunity after closure of the defendants side examination, filed I.A.No.1 of 2022, which was allowed on condition to complete the examination on a particular date. Even on that date, the defendants failed to examine their witnesses.

6. The learned counsel for the revision petitioner states that the aged mother of the revision petitioner was sick and therefore, the revision petitioner rushed to his house in order to take care of his mother, who was aged about 103 years old. However, such a reason stated is not convincing. The litigants, who are attempting to prolong the Suit are stating one or the



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other reason in a flimsy manner and if the Courts started to accept such reasons, this Court is afraid that no Suit can be disposed within a reasonable time.

7. The litigants, sometimes, due to ill-advice are taking such steps to prolong the litigation for an un-just gains. Sometimes prolongations are made for forum shopping on some occasions in order to harass the other side. Varieties of reasons are found, while such attempts are made by the litigants to prolong and and protract the litigations. Courts are expected to be vigilant. In the event of filing of unnecessary and frivolous Interlocutory Applications or otherwise, exemplary or maximum costs are to be awarded by the Court, which is to be paid to the other party.

8. Curiously in the present case, the revision petitioner is the practising lawyer. Therefore, the arguments as advanced on behalf of the respondents are to be considered. The practising lawyers knows, how to increase the longevity of a litigation. In the present case, he had not availed the opportunity for examining his side witnesses. It was closed by the Courts and he filed an Interlocutory Application for reopening of defendant's side



witnesses, which was allowed by the Court on condition that he should complete the examination of his side witnesses on a particular date. Even that opportunity was also availed. Therefore, this Court has no hesitation in forming an opinion that the revision petitioner, who is a practising lawyer, is of an opinion that he can somehow or other prolong and protract the Suit for some personal gains. Such mind set is traced out, the Court cannot grant any relief to such case. In the present case, the revision petitioner deserves no further consideration from the hands of this Court. That apart, the reasons stated in the docket order, which is impugned in this Civil Revision Petition is candid and convincing.

9. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.12.2022

Jeni

Index : Yes

Speaking order



To

The Judge
Sub Court,
Tambaram.

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S.M.SUBRAMANIAM, J.

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