



C.R.P.(PD) No.1924 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM : JUSTICE **N.SESHASAYEE**

C.R.P.(PD) No.1924 of 2019
& CMP No.12655 of 2019

Ramasamy

... Petitioner

Vs.

1.Pappathi
2.Aruna
3.Ambikadevi
4.Palanisamy
5.Rajamanickam

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 16.04.2019 passed in I.A.No.1 of 2019 in O.S.No.63 of 2010 on the file of the Principal Sub Court at Namakkal.

For Petitioner : Mr.R.Jayaprakash
For Respondents : Mr.D.Sivakumaran, for R1

ORDER

This petition is filed against the fair and decretal order dated 16.04.2019 passed in I.A.No.1 of 2019 in O.S.No.63 of 2010 on the file of the Principal Sub Court at Namakkal.



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2. This revision is preferred by the defendant in O.S.No.63 of 2010, in which, he challenges the order dismissing his application in I.A.No.1 of 2019 for re-calling DW1. The suit is laid for partition in which, the revision petitioner has set up a Will. DW1, whom he wants to re-call is the testator to the Will. This Court is informed that DW1 was cross-examined and the testator of the Will was also cross-examined and so was the defendant himself.

3. DW1 appears to be engaged in double speak and spoken contrary to the statement made by him in his affidavit in chief examination and there are certain aspects which need to be clarified in the context. This is suffice, by the learned counsel for the first respondent/plaintiff on the ground that the person attempted his aim to up-set the development, which the plaintiffs have derived during cross examination of DW1.

4. After hearing the rival submissions of the learned counsel on either side, this Court finds that the strategy of the revision petitioner /the first defendant appears to be bit strange in procedure. There is one possibility for him to immediately approach the Court after cross examination of DW1 to declare him hostile and after cross examination at that point of time. Today



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this is too late for him to seek to re-call of DW1. Secondly, this Court has also noticed that this application has been filed by the revision petitioner some two years after the closure of the trial.

5. This Court is not very appreciative of the fact that the trial Court should keep the suit for final disposal for two years after the closer of trial. In conclusion, this Court does not find any merit in this petition. Accordingly, this revision petition is dismissed. The trial Court is required to dispose of the suit in O.S.No.63 of 2010 on or before 15.06.2022. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2022

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

Note:Issue order copy on 07.04.2022.



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The Principal Sub Court at Namakkal

N.SESHASAYEE.J.,

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