



A.No.4272 of 2022

A.Nos.4272 & 4273 of 2022
in C.S.No.567 of 2017

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G. CHANDRASEKHARAN, J.

A.No.4273 of 2022 is filed to reopen the evidence of P.W.1 and A.No.4272 of 2022 is filed to recall P.W.1 for further cross examination by applicants/1st, 2nd & 7th defendants.

2.It is submitted by the learned counsel for the applicants that P.W.1 was partly cross examined and thereafter due to Covid-19 lock down, the case got adjourned. When the case was listed, applicants were always ready for cross examining P.W.1. On 07.04.2022 and 25.04.2022, though the applicants are ready, because of paucity of time, the learned Additional Master adjourned the case to 22.06.2022 for continuation of cross examination. Then on 14.07.2022, the Court was pleased to close the cross examination of P.W.1. Under such circumstances, this application is filed.

3.Both these applications are opposed by the learned counsel for the respondent on the ground that P.W.1 was present on several occasions atleast on the following dates:-



A.No.4272 of 2022

WEB COPY

26.11.2019, 06.12.2019, 03.01.2020, 22.01.2020, 03.02.2020
12.02.2020, 24.02.2020, 27.04.2021, 06.08.2021, 25.08.2021,
17.09.2021, 28.02.2022, 09.03.2022, 24.03.2022, 07.04.2022
25.04.2022 & 22.06.2022.

4. On all these dates, the cross examination was not done by the applicants and at the request of the applicants the cross examination was adjourned. Therefore, these applications have no merits and liable to be dismissed.

5. Considered the rival submissions and perused the records.

6. This is a suit for partition. The suit was filed in 2017 and not even the examination of P.W.1 was completed. Of course, there was intervening Covid-19 situation and that prevented any physical hearing or examination of witnesses for over a period of one and half years. However, this Court finds from the counter affidavit and the dates given that even after restoration of normal Court functioning and physical hearing and even when P.W.1 was present on the dates afore mentioned, the applicants have not chosen to cross examine P.W.1. The cross examination was mainly adjourned at the request of



A.No.4272 of 2022

the applicants.

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7.Considering the long delay in cross examination and time taken by the applicants, this Court is of the view that these applications may be allowed on payment of cost of Rs.5000/- to the respondents. The cross examination of P.W.1 shall be completed within a period of two weeks from the date of receipt of records. Parties are directed to appear before the concerned learned Master on 11.11.2022. Before 11.11.2022, the cost should be paid directly to the learned counsel for the respondent. Failure to pay costs would result in automatic dismissal of these applications without any further reference to the Court.

28.10.2022

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G. CHANDRASEKHARAN, J.

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