



CRP(PD).Nos.2985 & 2986 of 2019 and
C.M.P.No.19235 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

CRP(PD).No.2985 & 2986 of 2019
and
C.M.P.No.19235 of 2019

1.K.Umamaheswari
2.Geetha Padmini
3.Sudha
4.K.Santhamani

.. Petitioners
in both the C.R.Ps

Vs.

Lakshmi

.. Respondent
in both the C.R.Ps

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside fair and decreetal order dated 20.06.2019 made in I.A.Nos.02 of 2019 and 03 of 2019 respectively in O.S.No.543 of 2012 on the file of the I Additional District Court, Coimbatore.

For Petitioners : Mr.M.Guruprasad

For Respondent : Mr.C.R.Prasannan



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COMMON ORDER

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These Civil Revision Petitions have been filed challenging the impugned order passed in I.A.Nos.2 & 3 of 2019 in O.S.No.543 of 2012 on the file of I Additional District Court, Coimbatore. The defendants preferred these revisions.

2. Originally, the plaintiff / respondent filed the suit in O.S.No.543 of 2012 for the relief of partition and other consequential relief against the first defendant, Krishnasamy who is the father of the plaintiff. Krishnasamy died leaving behind the defendants 2 to 5 and all of them are contesting the suit. Written statement was filed by the first defendant and also the legal heirs of D1. Issues were framed and trial began. P.W.1 was cross examined and on both sides, witnesses were examined they were cross examined and their evidence were closed. When the matter was posted for arguments, the defendants filed an application to reopen and recall P.W.1 stating that some important vital points were left out. For that purpose, they want to re-examine P.W.1. Hence, they filed I.A.Nos.2 & 3 of 2019 before



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the trial Court. The said applications were strongly opposed by the plaintiff stating that already P.W.1, who is aged about 80 years, was examined through Commissioner and the defendats elaborately cross examined P.W.1, which comes around 7 pages and after closure of evidence of both the parites, during the argument, the plaintiff filed application to reopen and recall P.W.1, without assigning any proper reason nor also explained what are all the important and vital aspects they left in their affidavit. Accordingly, the said application was dismissed. Challenging the said finding, the defendants preferred this revision.

3. Learned counsel appearing for the respondent submits that they want to cross examine P.W.1 but they are not able to explain the Court what are all the vital points they left out. By relying the ratio laid down in ***Ram Rati Vs. Mange Ram (D) through L.R.s and others*** reported in **2016 (5) CTC 555**, the learned counsel for the respondent submits that if the party concern has not able to say the reason for reopen and recall, they are not permitted to seek to reopen the case and the trial Court has rightly dismissed the application.



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4. On considering both submission and on perusal of the affidavit filed by the defendants to reopen and recall, it clearly reveals that they have not assigned any reason for what purpose they want to recall P.W.1. They simply stated in the affidavit that some important vital points were left out and they have not answered anything as observed by the trial Court. Furthermore, as pointed out by the learned counsel for the plaintiff that the plaintiff is aged about 80 years old lady, was examined through Advocate Commissioner and she was cross examined by the defendants, which comes around 8 pages, it clearly reveals that P.W.1 was elaborately cross examined by the defendants. After closure of the evidence, the defendants filed an application to reopen and recall without assigning any reason, as such is not acceptable. The ratio laid down in the **Ram Rati** case filed the plaintiff / respondent is squarely applicable to the facts of the case. Moreover, the reason assigned by the trial Judge is justifiable, which needs no interference by the Court.



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5. Accordingly, the Civil Revision Petitions are dismissed.

Consequently, connected miscellaneous petition is closed. No costs. The trial Judge is directed to dispose the case, within a period of two months from the date of receipt of copy of this order.

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AT

Index :Yes/No

To

The I Additional District Court, Coimbatore.



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