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C.R.P.Nos.3597 and 3598 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.Nos.3597 and 3598 of 2022

and

C.M.P.No.19098 of 2022

M.Subramani

... Petitioner in both C.R.Ps

Vs.

- 1.Jadayan
- 2.Pattammal
- 3.Salammal
- 4.Vellaiyammal @ Ponniammal

5.The Joint I Sub Registrar
Arakkonam Joint I Sub Registrar Office,
Arakkonam.

6.The Tahsildar
Arakkonam Taluk Office,
Arakkonam.

7.The Manager,
Syndicate Bank,
Guruvarajapet Branch.

... Respondents in both C.R.Ps

PRAYER in C.R.P.No.3597 of 2022 : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.08.2022 passed in I.A.No.Nil of 2022 in A.S.No.19 of 2021 by the II Additional



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District Judge, Vellore at Ranipet and permit the petitioner to examine/adduce oral evidence of the forensic expert in respect of the forensic expert report as Ex.C.1 in the trial Court.

PRAYER in C.R.P.No.3598 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order 05.08.2022 passed in I.A.No.Nil of 2022 in A.S.No.19 of 2021 by the II Additional District Judge Vellore at Ranipet and direct the lower appellate Court at reopen the above appeal case enabling the petitioner to let in forensic evidence in respect of the forensic expert report marked at Ex.C1 in the trial court.

In both C.R.Ps:

For Petitioner : M/s.A.Balasingh Ramanujam

For R1 to R4 and R7 : No appearance

For R5 & R6 : M/s.Dr.S.Suriya
Additional Government Pleader

COMMON ORDER

These Civil Revision Petitions are filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to reopen the appeal and to lead oral evidence by examining the Forensic Expert who prepared Ex.C.1 report.



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2. The petitioner herein filed a suit for declaration, injunction, and mandatory injunction against the respondents in O.S.No.369 of 2014. The 1st respondent herein filed a suit for bare injunction in O.S.No.149 of 2018 in respect of the same property and both the suits were tried together. The suit filed by appellant was decreed and the suit filed by the 1st respondent was dismissed. Challenging the said judgment and decree, two appeals were filed by the respondents in A.S.No.18 of 2021 and A.S.No.19 of 2021. The appeals were taken up for hearing and the learned counsel for the appellant advanced his arguments. Thereafter, the petitioner herein filed an instant application seeking to reopen the appeal and also permission to lead original evidence by examining the expert who prepared the Ex.C.1 Forensic report.

3. The learned counsel for the petitioner submitted that at the time of arguments the counsel for the respondents /appellants before the Court below raised a contention that the Ex.C.1 Forensic report was marked, but the expert who prepared the report was not examined. Therefore, in order to answer that contention the petitioner had been constrained to file this application to examine Forensic expert before the First Appellate Court.



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4. It appears that the respondents filed a memorandum of grounds of appeal and raised a ground with regard to the non examination of the expert. But however the petitioner had not taken any steps to file a petition for examining the expert before the Appellate Court immediately. The petition has been filed belatedly after arguments on the side of respondents/appellants has been advanced. It is settled law it is not open to the petitioner to lead evidence to fill up lacuna. Further the Ex.C.1 was marked before the Court below. It also appears from the observation made by the Court below none of the parties had raised any objection with regard to Ex.C.1 expert report. In these circumstances, the present application was filed by the petitioner to lead oral evidence, especially after advancement of arguments by the respondents in appeal is not at all acceptable. It is not open to the parties to lead evidence in installments that too to fill up lacuna. Therefore, I do not find any illegality or irregularity in the order passed by the Court below. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.11.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order



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- To
- 1.The II Additional District Judge,
Ranipet, Vellore.
 - 2.The Joint I Sub Registrar
Arakkonam Joint I Sub Registrar Office,
Arakkonam.
 - 3.The Tahsildar
Arakkonam Taluk Office,
Arakkonam.
 - 4.The Manager,
Syndicate Bank,
Guruvarajapet Branch.

S.SOUNTHAR, J.

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