



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.Nos.1496 & 1497 of 2017

and

C.M.P.No.6996 of 2017

Ramanathan

... Petitioner/1st Defendant / Petitioner
(in both CRPs)

v.

1.Amsavalli
2.Palanivel
3.Sundaravel
4.Seperumal

... Respondents / Plaintiffs / Respondents
(in both CRPs)

Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 04.03.2017 passed in I.A.Nos.69 of 2017 and 70 of 2017 in O.S.No.73 of 2011 on the file of the Sub Court, Neyveli.

For Petitioner

.. Mr.S.Babu

For Respondents

.. Mr.G.Vijayakumar



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COMMON ORDER

These Civil Revision Petitions have been filed to set aside the order dated 04.03.2017 passed in I.A.Nos.69 of 2017 and 70 of 2017 in O.S.No.73 of 2011 on the file of the Sub Court, Neyveli.

2.The 1st defendant in O.S.No.73 of 2011 on the file of the Sub Court at Neyveli is the Revision Petitioner herein. The progress of the suit has been extremely slow. The plaintiffs had examined three witnesses. The 1st witness was the mother, the 2nd and 3rd witnesses were third parties. But however, the defendants did not cross-examine any of the witnesses. The evidence was closed. Thereafter, applications were filed to reopen and recall the witnesses. Those applications were allowed, but the opportunity granted for cross-examination was not taken up and therefore, the evidence of the plaintiff was closed. Again applications were filed to reopen the evidence and seeking permission to cross-examine the witnesses of the plaintiffs namely, PW1, PW2 and PW3. That particular Application in I.A.Nos.69 & 70 of 2017 came to be dismissed necessitating filing of the present Civil Revision Petitions.



3. Learned counsel for the revision petitioner stated that summons had still not been served on the 4th defendant and overlooking that particular aspect, trial had commenced.

4. I hold that it would only be appropriate that the parties are reverted back to the trial Court and evidence is recorded in entirety, which would indicate that opportunity will have to be given for cross-examination. I am also informed that the 2nd, 3rd, 4th and 5th defendants have also not filed their written statements. But if, the 2nd, 3rd, 4th and 5th defendants enter into the picture and file their written statements, then the plaintiffs would require to tender additional evidence. That opportunity will have to be given.

5. I would therefore allow these Civil Revision Petitions and direct the 1st defendant herein to cross-examine PW1, PW2 and PW3 on the basis of the chief examination already adduced. If, on service of summons the 4th defendant enters appearance and the 2nd, 3rd, 4th and 5th defendants file their written statements necessitating, the plaintiff to tender evidence rebutting any of the facts stated in those particular written statements, then if application is filed on behalf of the plaintiffs



and if sufficient reasons are given, then, the Sub Court at Neyveli may take a decision whether to permit the plaintiffs to tender further evidence in chief. If opportunity to tender further evidence in chief is granted, then necessary permission to cross-examine the witness on that evidence has also to be granted.

6. With the above observations, the present Civil Revision Petitions are allowed. The parties are reverted back to the Sub Court Neyveli. I hope the learned Sub Judge, Neyveli would devote some attention to dispose of the suit within a reasonable period of time. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

30.03.2022

Internet: Yes/No

Index: Yes/No

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To

The Sub Court, Neyveli.



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C.V.KARTHIKEYAN, J.

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