



WEB COPY



C.R.P.No.3781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM:

THE HON'BLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3781 of 2022

and

C.M.P.No.19921 of 2022

Subbulakshmi

... Petitioner

Versus

C.Ravichandran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Decree and Judgment made in I.A.No.150 of 2022 in O.S.No.160 of 2012, dated 18.08.2022 on the file of the I Additional District Judge (FAC), Tiruppur, Tiruppur District.

For Petitioner : Mr.C.Prakasam

ORDER

This Civil Revision Petition is filed challenging the order passed by the court below dismissing the petition filed by the revision petitioner seeking leave of the court to cross examine the witnesses of the respondent No.25.

2. The respondent filed a suit for specific performance of the sale



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agreement and the suit was dismissed. Aggrieved by the same, the respondent filed an appeal before this court in A.S.No.920 of 2015 and this court allowed the said appeal and remitted the matter back to the file of the trial court with a direction to the court below to consider the suit afresh on the basis of the evidence already recorded during trial.

3. When the matter is taken up for disposal by the trial court and the petitioner/defendant herein filed a petition seeking leave of the court to cross examine the witnesses of the Respondent No.25.

4. This court while ordering remand of the matter specifically said that the trial court has to consider the suit afresh on the issue pointed out by it based on the evidences already available on record. Therefore, there is no room for the petitioner to seek cross examination of the witnesses. If the present petition filed by the revision petitioner is allowed, it would amount to expanding the scope of the order of remand passed by this court. Therefore, the trial court has correctly dismissed the petition filed by the revision petitioner.



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5. The learned counsel for the petitioner has submitted that the petitioner also prayed for recasting of issues and the said request was not considered by the trial court. In fact, the said aspect was considered by the trial court in paragraph No.9 of the impugned order, wherein, it is stated that already an issue was framed by the trial court which reads as follows:

“Whether the agreement was entered into with consensus ad idiem or was coercion exercised on the defendant?”

6. In view of the fact that already the comprehensive issue has been framed with regard to the agreement in question, I do not think that the apprehension made by the learned counsel for the petitioner is well founded. Finding no error in the order passed by the court below, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

21.11.2022

Internet:Yes
Index:Yes/No
gv



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S.SOUNTHAR, J.

gv

To

The I Additional District Judge (FAC),
Tiruppur,
Tiruppur District.

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and

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