



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

Coram

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

C.R.P.PD.Nos.1884 & 1885 of 2017

and

C.M.P.No.9070 of 2017

Muthammal

... Petitioner/Petitioner/Plaintiff  
(in both CRPs)

v.

Angamuthu

... Respondent / Respondent / Defendant  
(in both CRPs)

Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 22.12.2016 passed in I.A.Nos.1076 of 2016 & 1077 of 2016 in O.S.No.286 of 2001 on the file of the District Munsif Attur.

For Petitioner

..

Mr.V.Lakshminarayanan

For Respondent

..

No Appearance



WEB COPY

**ORDER**

Both the Civil Revision Petitions arise out of O.S.No.286 of 2001 which suit, is pending for nearly two decades on the file of the District Munsif Court, Attur. The plaintiff is the revision petitioner in both the revision petitions.

2.The suit in O.S.No.286 of 2001 had been filed seeking specific performance of an Agreement of Sale. The plaintiff claims that an agreement had been entered into by the plaintiff with the defendant on 23.07.1990. The defendant had joined issues with the averments made in the plaint and had also filed a written statement. The defendant questions the Agreement of Sale and denies execution. Further, additional written statement was filed by the defendant claiming that the plaint is vague and the name of the village had not been stated and that the suit was barred by limitation.

3.It must also mentioned that in the interregnum period, the defendant had been set exparte and the plaintiff had the benefit of an exparte decree in her favour. That exparte decree was set aside by an order dated 25.11.2003 in I.A.No.891 of 2003. The issues touched upon



the genuinity of the Agreement of Sale and whether the plaintiff was entitled to the relief sought in the plaint.

4.The plaintiff examined PW-1, PW-2, PW-3 and PW-4. The trial proceeded in its own slow manner. Further Interlocutory Applications were filed seeking amendment of the plaint. That necessitated filing an additional written statement.

5.Then, finally the defendant was called upon to adduce evidence. The defendant adduced evidence and Exs.B1 and B2 were marked. The matter was thereafter posted for cross-examination of DW-1.

6.At that particular point of time, a further Interlocutory Application was filed. An additional written statement was also filed. The matter continued to be listed for cross-examination of DW-1. This went on for another five years. At various point of time, the defendant was also not present and time was sought for appearance of the defendant's witness.

7.In between, the learned counsel for the defendant also



unfortunately died and this necessitated grant of further adjournments.

There was also a Civil Revision Petition filed on an earlier occasion in CRP.No.621 of 2012 and that was pending for quite a few years and clarity on the issues raised was given to the Trial Court in the year 2016.

8. In the year 2016 from February onwards the matter was posted for cross-examination of DW-1. As stated DW-1 also thought that he could spend his time better by not appearing before the Court. Finally, on 06.04.2016, DW-1 appeared in Court. He was present, but the revision petitioner / plaintiff was not ready to cross-examine the witness and therefore, cross-examination was closed and the suit was posted for further evidence of DW-1. However, on 15.04.2016, the next hearing date, an endorsement was made that there was no further evidence and therefore, the suit was posted for advancing arguments. That was in the year 2016, and till this date arguments have not been advanced by either party.

9.The Interlocutory Applications in I.A.Nos.1076 & 1077 of 2016 came to be filed again by the plaintiff / revision petitioner seeking to reopen the evidence of the defendant and to recall DW-1 for further cross-examination.

10.The certified copies of the notes paper have been presented by



the learned counsel for the petitioner and a reading of the same, makes me wonder how the District Munsif, Attur had not got more frustrated with such slow progress of the suit and by intermittent absence of either the plaintiff or the defendant before the Trial Court. At some point of time after giving much leverage, when the learned District Munsif, had taken a particular decision with intention to move the progress in the suit forward again, interlocutory applications had been filed and an order was invited to be passed on such Interlocutory Application and when an order was passed, Revision Petitions had been filed and again the progress was halted.

11.I must also confess that these Revision Petitions had been pending from the year 2017 and therefore, it would not lie on this Court to complain that the Trial Court was slow in commencing and proceeding with trial.

12.Let me not hold over from passing orders in these Revision Petitions any further.

13.The notes paper speaks for themselves. When the defendant



was absent, the plaintiff was ready for cross-examination. But when the defendant was actually present, the plaintiff sought time for cross-examination. I can understand the frustration of the District Munsif, Attur, who closed the evidence on the side of the defendant and invited further evidence to be adduced.

14.It would only be appropriate, that the parties who have waited patiently for the past 20 years are directed to wait further for atleast another six months. Let the Trial process goes through its normal process of evidence being tested during cross-examination. Otherwise, the entire exercise over the past 20 years would have been an exercise of futility.

15.Therefore, without examining the merits of the case of the plaintiff or of the defendant and also noting that the respondent / defendant did not appear before this Court, even though notice had been served on 02.11.2017 and the name and address are also printed in the cause list, I would allow these Civil Revision Petitions and permit the evidence of the defendant to be reopened. This order is passed without knowledge as to the actual circumstance, as on date, with respect to either the plaintiff or the defendant and I hoped that they would be in a



position to present themselves before the Trial Court to continue further with the trial process.

16.Both the Civil Revision Petitions are allowed, affording an opportunity to the parties to ensure that whatever they have pleaded is tested in the witness box. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

17.The order in I.A.Nos.1076 and 1077 of 2016 dated 22.12.2016 are both set aside and a direction is given to the District Munsif, Attur to proceed further with the trial and endeavour to dispose of the suit, on or before 31.08.2022. A direction is issued to the plaintiff and the defendant to co-operate during the course of trial and ensure that the trial comes to a conclusion by 31.08.2022.

23.03.2022

Internet:Yes/No

Index:Yes/No

smv

To

The District Munsif Court, Attur.



WEB COPY



8

**C.V.KARTHIKEYAN, J.**

smv

C.R.P.PD.No.1884 & 1885 of 2017  
and  
C.M.P.No.9070 of 2017

23.03.2022