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C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD).No.3901 of 2022

and

C.M.P.No.20448 of 2022

Mrs.Shantha Bai

... Petitioner

Vs.

Ameerunnissa Begum Sahiba Endowment,
Rep. by its President,
Mr.Jalal Ameenur Rahman,
No.76, Pycrofts Road (Bharathi Salai)
Triplicane, Chennai – 600 005.

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 01.11.2022 passed by the Tamilnadu Waqf Tribunal in I.A.No.488 of 2022 in O.S.No.17 of 2018.

For Petitioner : Mr.S.Giri Tharan

For Respondent : Mr. N.A.Nissar Ahmed

ORDER



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

The Civil Revision Petition has been filed, questioning the validity of the order passed in I.A.No.488 of 2022 in O.S.No.17 of 2018 (Old O.S.No.5781 of 2011).

2. The defendant is the revision petitioner and the respondent is the plaintiff. The suit was instituted for a direction to quit, vacate and deliver vacant possession of the suit schedule property and for payment of arrears of rent and also for damages.

3. The suit was instituted in the year 2011 initially before the I Assistant City Civil Court and subsequently, transferred to the Waqf Tribunal at Chennai and re-numbered as O.S.No.17 of 2018. After a lapse of about 11 years from the institution of suit, the revision petitioner/ defendant filed an Interlocutory Application for directing the Tahsildar to furnish the revenue records for the proof of establishing the ownership in respect of the suit schedule property. The said Interlocutory Application adjudicated by the Waqf Tribunal was rejected on the ground that the petitioner has successfully dragged the suit as seen from the A-Diary/ docket orders throughout, and even having suffered an *ex-parte* decree once and later having set aside the same. After setting aside the



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

ex-parte decree, the revision petitioner has come forward with the Interlocutory Application after a lapse of about 11 years from the institution of a suit.

4. The learned counsel for the petitioner contended that the Interlocutory Application was filed to establish the ownership in respect of the suit property and therefore, the Tahsildar must be directed to furnish the revenue records.

5. The learned counsel for the respondent objected the contention raised by the petitioner by stating that the revision petitioner has successfully prolonged the suit for about 11 years and after setting aside the *ex-parte* order, the present Interlocutory Application is filed for a direction to produce the revenue records and considering the facts as well as the motive of the defendant in the suit, the trial Court dismissed the Interlocutory Application and thus, there is no infirmity and the revision petition is to be rejected.



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

6. It is brought to notice of this Court that with reference to the similar issue, in respect of the other tenants in C.R.P. Nos. 3922 and 3925 of 2022 was dismissed by this Court on 30.11.2022. The said revision petitions were also instituted against the similar Interlocutory Applications filed by those tenants.

7. The attempt of the litigants to prolong and protract the litigation, at no circumstances, be encouraged by the Courts. In a Civil Suit, either of the party in disadvantageous position, is always attempting to increase the longevity of the litigation one way or other. Sometimes they adopt the tactics of allowing the suit to be held *ex-parte* and thereafter, file a petition to set aside and similar circumstances are created with interventions. In some other Civil Suits, the parties are unnecessarily filing Interlocutory Application, knowing the fact that the relief in the Interlocutory Application is not relevant. At the outset, either filing the Interlocutory Application one after another without any basis or allowing the suit to be *ex-parte* and file an application to set aside the *ex-parte* and prolong the case.

8. The Courts are granting adjournments liberally without restraining the adjournments. The intervention between one adjournment to another adjournment



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

is long and such practice by the trial Courts are to be averted. Approaching the Civil Court now considered as an agony in justice delivery system and thus, this Court is of an opinion that changes are imminent and to be undertaken by all concerned.

9. In the event of any frivolous application and if the Court after adjudication, found that such Interlocutory Applications are filed with a motive or with an idea to prolong and protract the issues, then exemplary or maximum costs are to be awarded by the Courts, which would be one way of restricting such frivolous Interlocutory Applications during the pendency of the suit. More so, in Interlocutory Applications, long adjournments should not be granted by the Courts and even if adjournments are sought for on genuine grounds, short dates are to be given and Interlocutory Applications are to be decided precisely without causing any undue delay.

10. It is brought to the notice of this Court that in respect of compensatory costs under Section 35-A of the Code of Civil Procedure and costs for causing delay under Section 35-B of the Code of Civil Procedure, the maximum costs contemplated under the Code of Civil Procedure is to be imposed, when such



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

frivolous claims or applications are filed to prolong and protract the litigation.

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11. In the present case, the suit is pending for the past about 11 years. The defendant allowed the Court to pass *ex-parte* decree and thereafter, filed a petition to set aside the *ex-parte* decree and in fact, the suit was restored and after such restoration, he filed an Interlocutory Application to direct the Tahsildar to submit the revenue records. In such cases, where, revenue records are called for, it should be called for if the Court is of an opinion that such process is warranted. Whenever a party to the suit files such an application, it should not be encouraged in all circumstances, in view of the fact that the parties are having an opportunity to get those revenue records directly by approaching the revenue authorities or through Right to Information Act. While so, such Interlocutory Applications for a direction to produce the revenue records by the Tahsildar ordinarily should not be encouraged by the Courts and the parties soon after the institution of a suit or on receipt of notice in respect of the suit shall collect all those evidences from the revenue authorities directly and produce the same before the Court of law for the purpose of establishing their case. When an alternate procedure is available for securing those revenue documents, it is unnecessary for the Courts to issue directions, directing the Tahsildar to submit



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

the revenue records. Therefore, the Courts are expected to be slow in issuing such directions, whenever an Interlocutory Application is filed by either of the parties to the civil suit. It is for the parties to establish their own case by producing documents and evidences. The Courts cannot be utilised for the purpose of collection of evidences. This being the principles settled, issuing a direction to the Tahsildar is not desirable and it is for the parties to collect all those revenue records by approaching the revenue authorities or by following the procedures contemplated under law.

12. The principles in this regard are to be followed scrupulously by the Courts. Interlocutory Applications filed with an idea to prolong and protract the litigation must not only be discouraged, but maximum costs are to be awarded by the Courts. Interlocutory Applications filed for irrelevant purposes or to collect evidences through Court also to be dismissed with costs. Unless such a practice being adopted by the Courts, it may not be possible to cut down the duration of the disposal of the suits by the Courts. Thus, consistent and vigilant steps are to be taken by the Civil Courts, while dealing with the Interlocutory Applications filed by either of the parties to the civil suits.



C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

13. Considering the fact that earlier Civil Revision Petitions filed on the similar issue were dismissed and considering the findings of the trial Court in the order impugned, this Court do not find any acceptable reason for the purpose of considering the grounds raised in the Civil Revision Petition.

14. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.12.2022

kak/skr
Index : Yes
Speaking order

To

The Tamilnadu Waqf Tribunal,
Chennai.



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C.R.P.(PD).No.3901 of 2022 and
C.M.P.No.20448 of 2022

S.M.SUBRAMANIAM., J

kak/skr

C.R.P.(PD).No.3901 of 2022

06.12.2022