



CRP(PD)No.3484 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

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Ravi	...	Petitioner
	Vs.	
Vijayanthi	...	Respondent

Prayer: This civil revision petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.01.2017 passed in I.A.No.312 of 2016 in O.S.No.258 of 2011 on the file of the learned District Munsif, Dharmapuri and allow the revision petition.

For Petitioner : No appearance

For Respondent : No appearance

ORDER

There is no representation. The matter is listed under the caption “for dismissal”. The third defendant in O.S.No.258 of 2011 on the file of the District Munsif Court, Dharmapuri, is the revision petitioner herein.



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2.The said suit in O.S.No.258 of 2011 has been filed by the plaintiff Vijayanthi against the three defendants originally. Pending the suit, the first defendant Varadhappan died and therefore, the 4th and 5th defendants were impleaded as the defendants. The said suit had been filed seeking a declaration that particular sale deed registered on 06.02.2004 and dated 03.02.2004 and another sale deed registered on 31.05.2006 are null and void and for further relief of consequential injunction.

3.Written statement had been filed. Thereafter, the parties had been invited to gaze the witness box. The plaintiff had let in evidence as PW1. The matter was posted for cross examination of PW1. The present revision petitioner/the third defendant did not come forward to cross examine PW1. Therefore, the evidence of PW1 had been closed and this necessitated the revision petitioner herein/the third defendant to file an application under Order 18 Rule 17 CPC to recall PW1 for further cross examination. That application had come up for consideration before the trial Court/District Munsif Court, Dharmapuri. The trial Court, by an order dated 05.01.2017



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had dismissed the application in I.A.No.312 of 2016 holding that application had been filed only to protract the proceedings.

4.In the course of the order, it had been observed by the learned District Munsif Court, Dharmapuri that there had been further proceedings in the trial and quite apart from the evidence on the side of the plaintiff being concluded, the evidence on the side of the defendants had also been recorded and concluded. It had been stated that the said application had been filed to recall PW1. A perusal of the records show that the suit is of the year 2011 and the revision petition has now been pending for the past 5 years. The observation of the learned District Munsif Court, Dharmapuri is that evidence of the present petitioner herein as defendant had also been completed. It is now for the parties to advance argument on the basis of the records. Even otherwise, the explanation to Order 18 Rule 17 CPC shows that sufficient materials are available and if evidence had been recorded, to a large extent then the trial Court is at liberty to proceed to deliver the judgement on the basis of the available records. The civil revision stands dismissed and a direction is given to the Principal District Munsif Court,



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Dharmapuri, to proceed further and deliver a judgment in O.S.No.258 of 2011 on the file of the available records, if judgment had not been delivered.

No costs.

Index:Yes/No
Internet:Yes/No
sms

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To

The learned District Munsif, Dharmapuri



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C.V.KARTHIKEYAN,J

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