



WEB COPY

C.R.P.Nos.4101 & 4102 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.4101 & 4102 of 2022

1.Ayyanarappan @ Narayanan

2.Vijayakumar

... Petitioners

Vs.

Jegathambal

... Respondent

Prayer in C.R.P.No.4101 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.141 of 2022 in O.S.No.40 of 2010 dated 06.08.2022 on the file of the District Munsif-cum-Judicial Magistrate, Vanur.

Prayer in C.R.P.No.4102 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.142 of 2022 in O.S.No.40 of 2010 dated 06.08.2022 on the file of the District Munsif-cum-Judicial Magistrate, Vanur.

For Petitioners

: Mr.D.Ravichander
(in both C.R.Ps)



COMMON ORDER

The Civil Revision Petitions are filed to set aside the fair and decreetal orders passed in I.A.No.141 of 2022 & I.A.No.142 of 2022 in O.S.No.40 of 2010 on the file of the District Munsif-cum-Judicial Magistrate, Vanur.

2. The Revision Petitioners are the defendants in the original suit and the respondent herein instituted a suit for declaration and permanent injunction. The suit was instituted in the year 2010 and pending for the past about 12 years.

3. The revision petitioners filed I.A.No.141 of 2022 to re-open the defendants side evidence in order to examine one Mr.Periyasamy as their witness. Along with the re-opening petition, Interlocutory Application in I.A.No.142 of 2022 was filed to send summons to Mr.Periyasamy through Court and to examine him as defendants side witness.

4. The trial Court adjudicated the Interlocutory Applications and made a finding that the said Mr.Periyasamy was examined as D.W.3. However, he failed to appear before the Court on subsequent dates and



thereafter, summons were sent to the said witnesses Mr.Periyasamy. In spite of the summons sent by the Court, pursuant to the order passed in I.A.No.434 of 2017, the said Mr.Periyasamy/D.W.3 refused to receive summons and failed to appear before the Court. Accordingly, his evidence was closed by the trial Court and after delay, the defendants filed the Interlocutory Applications to reopen the evidence of Mr.Periyasamy and to send summons to him through Court and to examine him as defendants side witness.

4. The Trial Court found that the plaintiff was aged about 85 years and the said witness Mr.Periyasamy was already examined as D.W.3 and he failed to appear on subsequent dates and the summons sent by the Court also went in vain.

5. Considering the facts and circumstances and the age of the plaintiff, the trial Court dismissed the Interlocutory Applications and proceeded with the suit.

6. This Court do not find any perversity in respect of the findings of the trial Court. The trial Court formed an opinion that the Interlocutory



Applications were filed to prolong the suit proceedings, knowing the fact that the plaintiff is aged about 85 years and such Interlocutory Applications filed to prolong and protract the Civil Suit at no circumstances be encouraged by the Courts.

7. The idea of the revision petitioners for longevity of the suit proceedings cannot be appreciated. Once, the witness was examined and subsequently, he failed to appear before the Court and the Court issued summons and despite of the issuance of summons, he failed to appear thereafter, no further opportunity is required to be given by the Court.

8. Thus, the trial Court has rightly dismissed the Interlocutory Applications filed by the revision petitioners. Consequently, this Court do not find any other reason for the purpose of entertaining the revision petitions. The trial Court is directed to proceed with the suit and dispose of the same as expeditiously as possible. It is for the revision petitioners to take all available grounds, while contesting the case before the trial Court.



9. Accordingly, both the Civil Revision Petitions stand dismissed. No costs.

WEB COPY

09.12.2022

kak

Index : Yes / No

Speaking order / Non-speaking order

To

The District Munsif-cum-Judicial Magistrate,

Vanur.



WEB COPY

C.R.P.Nos.4101 & 4102 of 2



S.M.SUBRAMANIAM, J.

kak

C.R.P.Nos.4101 & 4102 of 2022

09.12.2022