



CRP. No.3867 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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M.E.Narasimhan

...Petitioner/9th Defendant/Petitioner
Vs.

1. M.E.Jayavelu

...Respondent/Plaintiff/1st Respondent

2.C.Lakshmi

3.Vijayalakshmi

4.Mannarsamy

5.Chitra

6.Uma

7.karthick

8.Babu

9.Lakshmi Ammal

10.Anjaneyan

11.E.Mohana

Amul @ Manjula (died)

12.E.Dakshyani

13.T.Kanchana

...Respondents 9 to 13/Defendants 10 to 14/Respondents 10 to 13



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PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India, Praying to set aside the fair and final order dated 17.09.2019 made in I.A No.1/2019 in O.S No.13 of 2006 on the file of the II Additional District and Sessions Judge, Ranipet, Vellore.

For Petitioner : Mr.S.Mukunth
For R1 : Mr.N.Damodaran
For R2 to R12 : Not ready in notice.

ORDER

The Revision petitioner herein is the 9th defendant in O.S No.13 of 2006 on the file of the II Additional District and Sessions Judge, Vellore at Ranipet filed by the plaintiff/first respondent herein for the relief of partition and other consequential relief, the defendants contested the suit by filing written statement, after framing issues, the plaintiffs evidence was recorded. Thereafter, 9th defendant's evidence was recorded as D.W.1, then the 9th defendant found discrepancies in the said recorded evidence. Hence, he refused to sign the deposition. Then the matter was adjourned to another date. Thereafter, there was no representation on the side of the 9th defendant, the Trial Court Closed the 9th defendant/petitioner herein evidence. Immediately, the petitioner filed I.A No.1/2019 in O.S No.13 of 2006 before the District Court, Ranipet for re-opening his evidence, which was contested by the



plaintiff who submitted that 9th defendant made false allegation. On

Considering both sides, the above said Court dismissed the application.

2. Challenging the same the 9th defendant preferred this petition by praying that without considering his contention, the Trial Judge dismissed the said application without giving fair opportunity to defend his case.

3. The learned counsel appearing for the respondent submitted that the inspite of giving several opportunities, the petitioner failed to appear before the Trial Court for recording evidence. Hence, it is apparent on the face of record that the intention of the petitioner is to drag on the proceedings, he made false allegation against the Court. Hene, he prayed to dismiss this petition.

4. Heard both sides.

5. The petitioner filed an application in I.A No.1 of 2019 in O.S No.13 of 2006 before the II Additional District and Sessions Court, Ranipet to re-open the evidence of the petitioner/9th defendant. In the meantime, he filed Transfer O.P No. 63 of 2018 before the Principal District



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Court, Vellore, to transfer his case to another Court, But the Trial Court dismissed I.A No.1 of 2019 in O.S.No.13 of 2006 for the reason that despite several opportunities were given, he failed to appear for recording evidence and also he failed to adduce the document with regard to Transfer O.P. Therefore, it is seen that due to pending of transfer O.P, he was not able to adduce his evidence but it was closed by the Trial Court. Therefore, this Court is of the view that one must be given fair opportunity to contest his case. Hence, the order passed by the II Additional District and Sessions Judge, Ranipet at Vellore in I.A No. 1/2019 in O.S No.13 of 2006 is hereby set aside. Moreover, the Trial Court is directed to record the evidence of the petitioner as per manner known to law within four weeks from the date of receipt of copy of this order. Accordingly, Civil Revision Petition is allowed.

29.09.2022

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T.V.THAMILSELVI.J.



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To

1. The II Additional District and Sessions Court, Ranipet.

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