



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Twentieth day of September Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CMP(MD) . No.8581 of 2022

IN
CRP(MD)NO.30 OF 2022

WEB COPY

V.M.Jaideep Srinivasan

Petitioner / 2nd respondent

- Vs. -

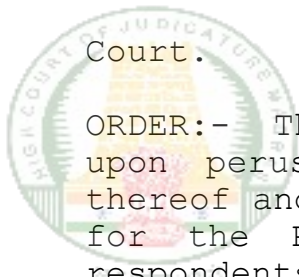
1. Puliyadi A.Balusamy Iyer Trust,
Represented by its Managing Trustee,
P.B.Ajit Babu,
 2. P.B.Biswajit Babu
 3. Karna Alagarsamy
 4. P.A.Jaswant Babu
 5. P.S.Subramanian
 6. T.Thirupathi
 7. M.K.R. Ramamoorthy
 8. S.B.Raghunathan
 9. M.R.Muthukrishna Kone
 10. S.M.Siddique
 11. S.S.Loganathan
 12. T.R.Babulal
 13. V.Veera Rejendran
 14. T.Kandasamy
 15. A.Subramani
 16. A.Murugesan
 17. K.Tamil Mani
 18. V.Ramamoorthy
 19. S.Thangavelu
 20. K.Packiam
 21. P.Mari
 22. R.Arumugam
 23. K.Selvam
 24. K.Kumar
- respondents 1 to 3 / Petitioners
- Respondents 4 to 24/ respondents 1, 3 to 22

Prayer in CMP(MD) . 8581/ 2022 :

Petition filed under section 148 an 151 of the C.P.C., to grant an extension of time of six months for disposal of the suit in O.S.No.749 of 2013 on the file of the second Additional Subordinate Court, Madurai.

Prayer in CRP(MD) . 30/ 2022 :

The Revision petition filed under Article 227 of the Constitution of India, Pleased to pass an order to dispose the Suit in O.S. No.749 of 2013 pending on the file of the learned Second Additional Subordinate Judge, Madurai within a time fixed by this Honourable



Court.



ORDER:- This Revision Petition coming on for orders on this day, and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.T.R.Jeyapalam, Advocate for the Petitioner and of Mr.R. Venkatesan, Advocate for the respondents, this Court made the following order:

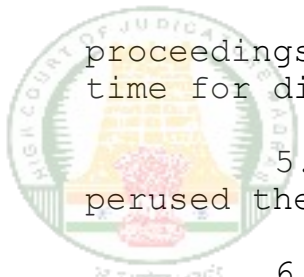
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This application is filed by the second defendant in O.S.No.749 of 2013, pending on the file of the II Additional Subordinate Court, Madurai, seeking extension of further time of six months for disposal of the above suit.

2.The respondents 1 to 3, who are the plaintiffs in O.S.No.749 of 2013 have filed the above suit for the relief of declaration and for recovery of possession in the year 2013. The plaintiffs with a grievance that the suit has not been concluded, they have approached this Court by filing CRP PD(MD)No.30 of 2022 during January 2022, seeking early disposal of the suit in O.S.No.749 of 2013. This Court disposed of the above Civil Revision Petition on 10.01.2022, with a direction to the learned II Additional Subordinate Judge, Madurai to conclude the trial in O.S.No.749 of 2013 on or before 30.06.2022. Since the trial could not be completed as per order of this Court, the trial Court sought for further time. This Court by order dated 25.07.2022 extended the time for a further period of two months.

3.The learned counsel for the respondents/plaintiffs projected that the suit was filed in the year 2013 and it is still kept pending and obtained an order for early disposal from this Court. According to the learned counsel, though the suit was filed in the year 2013, the trial was commenced only on 01.08.2019. The plaintiffs' side evidence was closed on 08.04.2022 and pending the suit, the plaintiffs also amended the plaint for four times. The defendants' side evidence was commenced on 08.06.2022 and DW 1 was examined. After examination of DW 1, the plaintiffs filed three interlocutory applications in I.A.Nos.386 to 388 of 2022 to re-open the case, to recall PW 1 and to produce 16 additional documents. Those documents were allowed by the trial Court on 08.09.2022. Thus, all along the plaintiffs have delayed the process and also obtained an order from this Court for an early disposal of the suit in O.S.No.749 of 2013. The learned counsel further submits that in view of the order passed by this Court, the trial Court has not provided sufficient opportunity to the petitioner/second defendant to adduce his side evidence. The trial Court refused to grant further time and posted the case for arguments. Since the petitioner/second defendant has to adduce some more evidence in O.S.No.749 of 2013, he must be provided an opportunity.

4.The learned counsel appearing for the respondents/plaintiffs disputed the contention of the learned counsel for the petitioner that the plaintiffs delayed the



proceedings of the suit and strongly objected for grant of time for disposal of the suit.

5.This Court considered the rival submissions made and perused the materials placed before this Court.

6.The suit in O.S.No.749 of 2013 was filed in the year 2013 and it is still pending before the II Additional Subordinate Court, Madurai. In earlier occasion, the plaintiffs approached this Court in CRP(MD) No.30 of 2022 for early disposal of the above suit. Considering the relief sought for in the Civil Revision Petition and the fact that the suit is also pending from the year 2013, this Court disposed of the above Civil Revision Petition with a direction to the trial Court to conclude the trial within a reasonable time. In view of the subsequent applications filed by the plaintiffs and the time taken by the parties, the learned II Additional Subordinate Judge, Madurai made a request for extension of time, which was also considered by this Court on 25.07.2022, by extending further time of two months.

7.It is brought to the knowledge of this Court that in view of the earlier order passed by this Court, the trial Court insisting upon the parties to argue the case, enabling the Court to conclude the trial. The fact remains that the plaintiffs' side evidence completed only on 08.04.2022 and thereafter the plaintiffs filed applications for re-opening PW 1, recalling the case and for producing additional 16 documents. Those applications were also allowed by the trial Court on 08.09.2022. Insofar as the evidence on the side of the defendants is concerned, examination of DW 1 alone was completed on 08.06.2022 and he has to adduce some more evidence. Therefore, reasonable opportunity must be provided to the defendants also.

8.In view of the above, further time of three months is hereby granted to the trial Court to conclude the trial. The trial Court shall provide sufficient opportunity to both the parties to adduce their evidence and dispose of the suit on its own merits and in accordance with law within a period of three months from the date of receipt of a copy of this order, without any further delay. The parties shall also extend their fullest co-operation to conclude the trial.

9.With the above directions, this Civil Miscellaneous Petition is allowed.

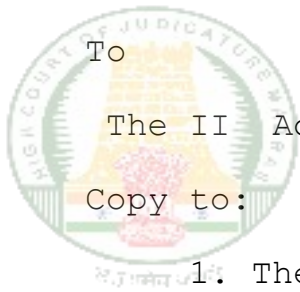
Sd/-

Assistant Registrar(Records)

// True Copy //

/09/2022

Sub Assistant Registrar(CS)



To

The II Additional Subordinate Court, Madurai.

Copy to:

1. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr. T. R. Jeyapalam, Advocate, in Sr. No.45810.

ORDER DATED : 20/09/2022

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ORDER

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CMP(MD) . No.8581 of 2022

in

CRP(MD)NO.30 OF 2022

Giving direction and etc.

as stated within.

KB(21.09.2022) 4P 6C