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CRP (MD) No. 2091 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

CRP (MD) No. 2091 of 2022

and

CMP (MD) No. 9610 of 2022

Veluchamy

... Petitioner

Vs

A. Pushpa

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Principal District Judge, Sivagangai to take on file and number the petition in unnumbered IA.No. Of 2022 in OS.No.58 of 2014 on the file of the Principal District Court, Sivagangai and to decide the same on merits.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.T.Lajapathi Roy

ORDER

This civil revision petition is filed as against the return of the application filed by the petitioner / plaintiff under Section 151 of CPC to re-open the plaintiff side's evidence.



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2. The petitioner / plaintiff filed an application to reopen the plaintiff's side evidence and the same was returned by the trial Court stating that this Court in AS (MD) No. 51 of 2022, dated 24.06.2022 has specifically given a direction to complete the trial on or before 30.09.2022. Aggrieved over the return of the application of the petitioner, this present civil revision petition is filed.

3. The learned Counsel for the petitioner submits that this petitioner has filed the above suit in OS. No. 58 of 2014 before the District Court, Sivagangai for the relief of specific performance of registration of sale deed dated 01.11.2012. The suit was decreed ex-parte on 30.09.2015. As against the judgment and decree, the respondent preferred an appeal before this Court in AS (MD) No. 51 of 2022 and the same was disposed of by this Court by judgment and decree dated 24.06.2022, remanding the suit back to the trial Court with a direction to complete the trial on or before 30.09.2022. Thereafter, the respondent has adduced evidence and therefore, the petitioner has filed the above application to recall PW2 to



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give additional evidence. However, the said application was returned by the trial Court by citing the time limit fixed by this Court.

4.Heard the learned Counsel on either side and perused the materials.

5.This Court has remitted the case to the trial Court fixing a time limit. The trial Court has returned the application filed for reopening the evidence of plaintiff's side, by citing the direction given by this Court in AS(MD)No.51 of 2022 dated 24.06.2022 to complete the trial within the stipulated time. This Court is of the view that the reason of the trial Court for returning the application is unacceptable. Therefore, the impugned order is set aside.

6.The Registry shall return the original paper to the petitioner forthwith. The petitioner shall re-present it before the trial Court within a period of one week from the date of receipt of a copy of this order and the trial Court shall number it and provide an opportunity to the

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respondent to file his response within a period two week therefrom and thereafter decide the application on merits within a period of three weeks. The time granted by this Court in AS(MD)No.51 of 2022 is also extended by this Court by four months.

7.The Civil Revision Petition is allowed on the above terms. No costs. Consequently connected miscellaneous petition stands closed.

04.11.2022

dsk

To

Principal District Judge,
Sivagangai.



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B. PUGALENDHI, J.

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