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C.R.P (MD) Nos.2117 and 2118 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20.06.2022

CORAM:

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

C.R.P (MD) Nos.2117 and 2118 of 2021
and
C.M.P (MD) Nos.11242 and 11244 of 2021

P.Ganesan

... Petitioner
in both petitions

Vs

1.Chennathai

2.Dhachanamoorthy

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and executable order dated 22.11.2021 passed in the application in I.A.Nos.5 and 4 of 2021 in O.S.No.37 of 2015 on the file of the Additional District Munsif and Judicial Magistrate Court, Sivagiri and allow the civil revision petition.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.Manianand



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ORDER

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These petitions are filed as against the orders of the trial Court in I.A.Nos.5 and 4 of 2021 dated 22.11.2021 in O.S.No.37 of 2015 on the file of the learned District Munsif cum Judicial Magistrate, Sivagiri.

2.The petitioner is the plaintiff in the suit and while the case stood posted for arguments, he filed two applications, for reopening of the suit and for recalling DW1 for further examination. The said applications were dismissed by order dated 22.11.2021. Aggrieved over the same, the present civil revision petition is filed.

3.The learned Counsel for the petitioner submits that the document Ex.B1 was marked only at the argument stage and in respect of the same, he has to cross examine the witness on certain aspects and therefore, the petitioner has taken out these applications for reopening of the suit and for recalling of DW1.



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4. The learned Counsel for respondents submits that the document in Ex.B1 as marked on 17.04.2021 itself and thereafter, the case stood posted on 13.11.2021 and on 20.09.2021. Moreover the petitioner has also elaborately cross examined DW1 for three days. Therefore there is no necessity for him to file these applications at the stage of arguments.

5. Heard the learned Counsel on either side and perused the materials placed on record.

6. The petitioner/plaintiff filed a suit in O.S.No.37 of 2015 for bare injunction. The petitioner has also filed two interlocutory applications in I.A.Nos.4 and 5 of 2021 for reopening of the suit and for recalling of DW1. According to the learned Counsel for the petitioner with regard to document Ex.B1, the petitioner has to examine DW1 and therefore, the applications reopening of the suit and the application for recalling of DW1 were filed. Though the petitioner claims that document Ex.B1 was marked at the stage of arguments, it is seen that after marking of the said document, the case was posted on 31.08.2021 and



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20.09.2021. At that relevant point of time, the petitioner/plaintiff has not taken any steps to cross examine DW1 in this regard. It is seen that DW1 was cross examined in detail for three days. Therefore, the reasons assigned by the petitioner are not acceptable and this Court is not inclined to entertain these civil revision petitions. Accordingly, these civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions also stand dismissed.

20.06.2022

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To

The Additional District Munsif
and Judicial Magistrate Court,
Sivagiri.



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B.PUGALENDHI, J.

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