



CRP(PD)(MD)Nos.2435 to 2437 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)Nos.2435 to 2437 of 2022

and

CMP(MD)Nos.11779 of 2022

1. Ponnambalam
2. Sangapillai
3. Thiyagarajan
4. Ilaiyaraja

... Petitioners in all CRPs.

versus

1. Vembusamy
2. Palanisamy
3. Sekar
4. Kanthasamy
5. Gurusamy
6. The Executive Officer,
Krishnarayapuram Municipal Office,
Krishnarayapuram Post,
Karur District.
7. The Village Administrative Officer,
North Krishnarayapuram,
Karur District.



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8. The Tahsildar,
Taluk Office,
Krishnarayapuram Taluk,
Karur District.

9. The Revenue Divisional Officer,
Kulithalai Revenue Divisional Office,
Kulithalai,
Karur District.

10. The District Collector,
Collector Office,
Karur District.

... Respondents in all CRPs.

Prayer in CRP(PD)(MD)No.2435 of 2022: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 13.09.2022 made in I.A.No.6 of 2022 in O.S.No. 305 of 2021 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur.

Prayer in CRP(PD)(MD)No.2436 of 2022: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 13.09.2022 made in I.A.No.7 of 2022 in O.S.No. 305 of 2021 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur.



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Prayer in CRP(PD)(MD)No.2437 of 2022: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 13.09.2022 made in I.A.No.8 of 2022 in O.S.No. 305 of 2021 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur.

For Petitioners

in all CRPs. : Mr.R.Sakthivel

For R1 in all

CRPs. : Mr.I.Robert Chandra Kumar

COMMON ORDER

CRP(PD)(MD)No.2435 of 2022 has been filed against the order dated 13.09.2022 made in I.A.No.6 of 2022 in O.S.No.305 of 2021 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur.

2. CRP(PD)(MD)No.2436 of 2022 has been filed against the order dated 13.09.2022 made in I.A.No.7 of 2022 in O.S.No.305 of 2021 on the file of the District Munsif cum Judicial Magistrate,



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3. CRP(PD)(MD)No.2437 of 2022 has been filed against the order dated 13.09.2022 made in I.A.No.8 of 2022 in O.S.No.305 of 2021 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur.

4. The petitioners herein are defendants 1 to 4 in O.S.No.305 of 2021 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram. They filed interlocutory applications in I.A.Nos.6 to 8 of 2022 to re-open the case, to re-call the official witnesses, namely, D.W.6 to D.W.10 and to inspect the nature of suit property through an Advocate Commissioner with the help of a Taluk Surveyor, respectively. But, the trial Court, by order dated 13.09.2022, dismissed all the applications. Aggrieved over the same, the present Civil Revision Petitions are filed.



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5. The learned counsel appearing for the petitioners submits that these applications have been filed on 13.09.2022, i.e., immediately after the defendants side evidence is closed, but, the trial Court dismissed the said applications on the same day, without considering the merits of the applications and even without ordering a notice to other side.

6. The learned counsel appearing for the first respondent/first plaintiff submits that these applications have been filed after the defendants side evidence is closed and it is only to drag on the proceedings and therefore, the trial Court has rightly dismissed the said applications.

7. This Court considered the rival submissions and also perused the materials available on record.

8. The respondents 1 to 4/plaintiffs 1 to 4 have originally filed a



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suit for declaration in O.S.No.41 of 2019 before the District Munsif Court, Kulithalai, which was subsequently transferred to the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur and renumbered as O.S.No.305 of 2021. The petitioners herein are defendants 1 to 4. In the said suit, the defendants side evidence had commenced and when the chief examination of D.W.6 to D.W.10 was taken on 03.09.2022 and 07.09.2022, the petitioners failed to cross examine those witnesses and filed I.A.Nos.6 and 7 of 2022 to re-open the case, to re-call the official witnesses, namely, D.W.6 to D.W.10 for the purpose of cross examination. Therefore, the trial Court, by considering the conduct of the petitioner in not cross examining the official witnesses on the same day, dismissed the above interlocutory applications.

9. The learned counsel appearing for the petitioners further submits that the petitioners are ready to cross examine the official witnesses, namely, D.W.6 to D.W.10 on the same day itself. If the



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petitioners are not allowed to cross examine those witnesses, then, they will not be in a position to prove their case. Therefore, he prays for allowing the Civil Revision Petitions.

10. Considering the nature of suit, this Court, in order to provide one opportunity to the petitioners/defendants 1 to 4, is inclined to allow CRP(PD)(MD)Nos.2435 and 2436 of 2022 with cost of Rs.4,000/- which has to be paid to the concerned officials.

11. Accordingly, CRP(PD)(MD)Nos.2435 and 2436 of 2022 are allowed with cost of Rs.4,000/- (Rupees four thousand only), which has to be paid to the concerned officials on the date of cross examination. The Trial Court shall permit the petitioners/defendants 1 to 4 to cross examine D.W.6 to D.W.10. The petitioners shall cross examine D.W.6 to D.W.10, on the same day, when they are available for cross examination.



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12. With regard to CRP(MD)No.2437 of 2022, this Court is not inclined to interfere with the order of trial Court. Hence, CRP(PD)(MD)No.2437 of 2022 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.12.2022

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Index : Yes / No.

Internet: Yes / No.

To

1. The District Munsif cum Judicial Magistrate,
Krishnarayapuram,
Karur.



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B.PUGALENDHI, J.

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