



C.R.P.No.122 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.122 of 2023 and
C.M.P.No.1021 of 2023

A.K.Ponnusamy

.. Petitioner

VS

1. Sathiesh

2. Modayappa Gounder

3. Thangarasu

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India seeking to set aside the fair and decretal order dated 16.12.2022 made in I.A.No.02 of 2022 in O.S.No.130 of 2017 on the file of learned District Munsif, Paramathi and allow this civil revision petition.

For Petitioner : Mr.S.Sivakumar

ORDER

The civil revision petition has been filed to set aside the fair and decretal order dated 16.11.2022 passed in I.A.No.02 of 2022 in O.S.No.130 of 2017.



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2. The revision petitioner is the plaintiff who instituted a suit for declaration and permanent injunction. The declaration is sought for regarding the pathway in the suit schedule property. Admittedly, the examination of the witnesses were concluded and the suit was posted for arguments on 10.01.2023. In the meanwhile, the revision petitioner filed an interlocutory application on 09.12.2022 to reopen the evidence for the purpose of marking the photographs as documents to establish the case.

3. No doubt, the parties are entitled to establish their case by filing documents and through evidences. In the present case, all the documents filed by the respondent were marked and the evidences were taken and examined and cross examination was over. At the final stage, the petitioner has filed an interlocutory application. The Trial Court made a finding that the filing of photograph would not be relevant for the purpose of establishing the case of the plaintiff. Mere photograph, in respect of the property in question, would be insufficient for the purpose of establishing



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the case and further, the suit was directed to be listed for arguments and thus, the interlocutory application was dismissed.

4. This Court is of the considered opinion that the suit is for declaration and permanent injunction. The plaintiff is expected to establish his case through documents and evidences. In the present case, the revision petitioner participated in the trial and marked documents. Even at that point of time, the photographs were very much within the knowledge of the revision petitioner / plaintiff and have chosen not to file the photograph at the time of plaintiff side witness examination. They allowed the Court to proceed and conclude the examination of witnesses and cross examination. When the suit is posted for arguments, they have insisted the Courts for reopening of the evidences, which was repeatedly rejected. If such interlocutory applications are allowed at the final stage, it will prolong the litigation and in the present case, the findings of the Trial Court is that mere photograph would be insufficient to establish the case of the plaintiff and thus, dismissed the interlocutory application.



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19.01.2023

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Neutral Citation: Yes/No

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To

1. The District Munsif, Paramathi.



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S.M.SUBRAMANIAM, J.
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