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C.R.P. No.789 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.789 of 2023
and
C.M.P. No. 6067 of 2023

Mekala

... Petitioner

Versus

1. N.Jayalakshmi,
2. Pattammal
3. Chandrasekar
4. Selvadurai
5. Lokeshwari
6. C.B.Muralikrishnan
7. The Purasawakkam Permanent
Fund Limited,
Vallalar Street,
Purasawakkam, Chennai-84.

... Respondents



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PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the Order passed by the Principal City Civil Judge, in Transfer Petition No.133 of 2022 dated 15.02.2023 in O.S.No.11985 of 2010 pending on the file of the XIX Addl. City Civil Court, Chennai.

For Petitioner : Mr.Sathish Kumar

For Respondents : Mr.G.Vivekanand

ORDER

Challenging the impugned order passed by the trial court in Tr.Petition No.133 of 2022 dated 15.02.2023 in O.S.No.11985 of 2010 pending on the file of XIX Addl. City Civil Judge, Chennai, the 5th defendant preferred this Civil Revision Petition.

2. The contention of Revision Petitioner is that when the matter was posted for arguments on 14.07.2022 before the trial court, they have completed part of the arguments and remaining part of arguments, the trial judge is not inclined to grant time to hear further arguments. However, the



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arguments of defendants 5 and 6 was closed and the matter was adjourned for other defendants arguments. Subsequently, the trial judge has hurriedly attempted to dispose the case. Hence, she has filed a petition to transfer the matter in Tr.Petn. No.133 of 2022 to other court as the trial Judge was influenced and biased. That application was strongly objected by the plaintiff stating that from the year of 2007 onwards, she is not able to get the property in possession and even though she is a purchaser of the property, she is not able to complete the trial due to the alleged tactics of this defendant. This defendant's husband being an advocate, who is arrayed as 6th defendant in the suit, had caused all sorts of hindrance in conducting the trial proceedings. Hence, the plaintiff raised objection. Even though sufficient opportunity was given by the trial judge to the defendants, they are dragging on the proceedings, so, the transfer petition has been filed. Considering both side submissions, the trial judge held that the reasons assigned by them to transfer the case to other court is unjustifiable one and only to protract the proceedings, she come forward with the transfer petition with insufficient and unacceptable reasons and accordingly, dismissed the application. Challenging the said findings, the present Civil Revision



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Petition has been filed.

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3. The learned counsel for Revision Petitioner would submit that the trial judge without giving sufficient opportunity, has hurriedly attempted to close the arguments and dispose the case and also acted in a biased manner. Hence, she is not inclined to complete the trial proceedings before the trial judge though she raised proper reasons before him. Hence, she prayed to set aside the order.

4. The learned counsel for 1st respondent/plaintiff raised objection stating that sufficient opportunity was given to this defendant and evidence was closed much earlier in the year of 2017. However, the husband of this petitioner is a practicing advocate, who is arrayed as 6th defendant in the suit causing all sorts of hindrance in proceeding with the trial and she is not able to proceed with the trial proceedings from the year of 2007 onwards. Furthermore, the learned judge has not made any comment with regard to the tactics of defendants 5 and 6 in the trial proceedings. In spite of that, all these allegations levelled against the trial judge in order to transfer the matter to some other court only with an intention to drag on the



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proceedings. Hence, he prayed to dismiss this Civil Revision Petition.

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5. By way of reply, the learned counsel for Revision Petitioner would submit that in open court, the learned Presiding Officer declared that she is not having a case. Hence, she was very much affected and so, she is not inclined to proceed the case before that court and prayed to transfer the matter to some other court.

4. Heard both sides and perused the records.

5. On seeing the entire records, it would clearly reveals that on 22.06.2022 arguments of defendants 5 and 6 heard in part and posted the matter for completing their arguments on 14.07.2022. On that day itself, arguments were heard in full and they have filed their written statement, however, when the 2nd and 3rd respondent called absent, the trial court closed their arguments and the matter was posted for judgment on 26.07.2022. On that day, in order to reopen the case, the 5th defendant has filed an application in I.A.No.3 of 2023 to reopen the case for arguments and the



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same was allowed by the trial court by giving opportunity to 5th defendant.

In that application also, the Revision Petitioner not disclosed anywhere about the alleged comments made by the Presiding Officer, but, on the other hand, he wanted to submit his arguments. Accordingly, the trial judge has rightly allowed the application by giving one more opportunity to reopen the case. Thereafter, the matter was posted for further arguments on the side of Revision Petitioner. However, instead of arguing the matter before the trial court, he wanted to transfer the matter to some other court making allegation against the Presiding Officer. Merely because the Presiding Officer has made any such allegation, the Revision Petitioner ought to have disclosed the fact anywhere in the application filed in I.A.No.3 of 2022, but no such allegation was made in that application. So, the conduct of Revision Petitioner clearly shows that only to drag on the proceedings, the application was filed and there is no allegation against the presiding officer. The trial judge discharged his duty, however on making allegation against the Presiding Officer would cause embarrassment to proceed the matter, which could not be encouraged. However, on seeing the conduct of Revision Petitioner, the reason assigned by him is not acceptable by this



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court and if the proceedings are allowed to continue before the concerned trial judge, it would cause hindrance to the trial judge. Hence, this Court is inclined to transfer the matter to XVII Addl. City Civil Judge, Chennai and learned XVII Addl. City Civil Judge is directed to dispose the matter within a period of eight weeks without giving unnecessary adjournments from the date of receipt of copy of this order. If at all, the Revision Petitioner wanted to make arguments either orally or by written, he is permitted to submit his arguments within a period of one week from the date of receipt of copy of this order. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.03.2023

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

1. XIX Addl. City Civil Judge,
Chennai.
2. XVII Addl. City Civil Judge,
Chennai.

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T.V.THAMILSELVI, J.

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