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C.R.P.(PD) Nos.1110 and 111 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21/4/2023

C O R A M

**THE HONOURABLE Dr.JUSTICE D.NAGARJUN**

Civil Revision Petition (PD) Nos.1110 and 1111 of 2023  
a n d  
C.M.P.Nos.7818 and 7819 of 2023

1. Sri Sahsara Linga Yoga Anjaneyaswamy  
Saptha Rishi Peedam  
Charitable Trust & Seva Trust  
rep. By its Managing Trustee  
Mr.K.Ravi @ Ravindran  
36 Thiyagarajapuram  
Kalimagal Petrol Bunk Back Side  
Phase I, Sathuvachari  
Vellore 632 009.
2. Sri Sahsara Linga Yoga Anjaneyaswamy  
Saptha Rishi Peedam  
Charitable Trust & Seva Trust  
rep. By its Managing Trustee  
Tmt.Shyamala  
36 Thiyagarajapuram  
Kalimagal Petrol Bunk Back Side  
Phase I, Sathuvachari  
Vellore 632 009.
3. Sri Sahsara Linga Yoga Anjaneyaswamy  
Saptha Rishi Peedam  
rep. By its Secretary  
Thiru.Suresh Babu  
Vellore 632 009.

...

Petitioners in both the  
petitions

Vs



C.R.P.(PD) Nos.1110 and 111 of 2023

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1. V. S.Padmanaban

2. V. S.Namasivayam

...

Respondents in both  
the petitions

**Prayer:** Petitions filed under Article 227 of the Constitution of India to set aside the order passed by the learned District Munsif Court, Vellore in I.A.Nos.51 and 52 of 2023 in O.S.No.76 of 2010 dated 31/1/2023 and reopen the suit to recall P.W.1 and allow the petitioners to cross-examine P.W.1.

For Petitioners

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Mr.Amarnath

For Respondents

...

Mr.Tamilavel

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### **COMMON ORDER**

These Civil Revision Petitions have been filed to set aside the orders, dated 31/1/2023, passed by the learned District Munsif Court, Vellore, in I.A.Nos.51 and 52 of 2023 in O.S.No.76 of 2010 and reopen the suit to recall P.W.1 and allow the petitioners to cross-examine P.W.1.

2. Heard Mr.S.Amarnath, learned counsel for the petitioners and Mr.Tamilavel, learned counsel for the respondents.



3. The learned counsel appearing for the petitioners submitted that the respondents/defendants have filed a suit for mandatory injunction and after completion of the pleadings, issues have been settled. Both the petitioners and respondents have completed their part of evidence.

4. When the matters were posted for arguments, the petitioners being the defendants have filed I.A.No.51 of 2023 in O.S.No.76 of 2010, under Section 151 of the Code of Civil Procedure, to reopen the suit for filing recall application and I.A.No.52 of 2023, under Order 18 Rule 17 and Section 151 of the Code of Civil Procedure, to recall P.W1 for further cross-examination by the respondents/defendants. These petitions were strongly opposed by the respondents/defendants and on hearing both sides, the learned Additional District Munsif, Vellore, has dismissed both the applications. Aggrieved by the dismissal of both the petitions, the petitioners have preferred the instant Civil Revision Petitions.

5. Learned counsel appearing for the petitioners submit that after completion of the evidence of the respondents/defendants, the petitioners/defendants have realised that certain important questions, regarding the suit property have to be put to P.W.1 and therefore, P.W.1



has to be recalled for cross-examination.

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6. Learned counsel appearing for the respondents have taken this Court to the chronological events, from the date of filing of the suit and demonstrated as to how the petitioners/defendants have chosen to file these applications at belated stage.

7. On a perusal of the records, it is clear that suits were filed in the year 2010. After passing through series of adjournments and on considering the various applications, ultimately, the matters were posted for arguments. At this stage, the petitioners/defendants have invoked Order 18 Rule 17 and Section 51 of the Code of Civil Procedure. The Hon'ble Apex Court in a decision reported in ***RAM RATI Vs. MANGE RAM (DEAD) THROUGH LEGAL REPRESENTATIVES AND OTHERS (2016) 11 SUPREME COURT CASES – 296***, has held that the Court may, either suo motu or on the request of any party, recall any witness at any stage of the suit.



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8. No explanation was offered by the petitioners to the query that soon after completion of cross-examination of P.W.1 by the petitioners, why applications for recalling of P.W.1, for further cross-examination by the defendants could not be moved. Further, on a careful perusal of the petitions filed by the petitioners in the trial Court, it is clear that the petitioners have not disclosed the purpose for which they have moved the applications for recalling the witnesses. The petitioners are expected to mention in the petitions as to on which aspect or on which subject, the petitioners/defendants have forgotten to put questions to P.W.1. Had the petitioners mentioned the questions that they intend to ask the respondents/plaintiffs, this Court would have considered these applications, keeping in view the questions which the petitioners intend to ask P.W.1. However, except mentioning that the petitioners have failed to put some important questions regarding the suit property, nothing has been mentioned. Considering the circumstances under which Order 18 Rule 17 and Section 151 of the Code of Civil Procedure can be invoked and also considering the fact that these petitions were filed at a belated stage, there are no merits in the contention raised by the petitioners.

Dr.D.NAGARJUN,J



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9. Having considered the entire records and on hearing both sides, this Court is of the opinion that there is no error committed by the trial Court, except the relief sought for by the petitioners in I.A.Nos.51 and 52 of 2023 in O.S.No.76 of 2010. Therefore, these revisions are devoid of merits and is liable to be dismissed.

10. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

21/4/2023

Index :yes/no

Neutral Citation: Yes/No

mvs.

To

The District Munsif, Vellore

C.R.P.(PD).Nos.  
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