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C.R.P.Nos.1262, 1264 and 1265 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.Nos.1262, 1264 and 1265 of 2023

and

C.M.P.No.8536 of 2023

R.Raman (died)

1.S.Kaveri

2.Saroja

3.Kannan

4.Parvathi

Kamalammal (died)

..Petitioners in all the CRPs

Vs.

1.Elumalai

2.A.Jayaraja

.. Respondents in all the CRPs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 13.03.2023 in I.A.Nos.1, 3 and 2 of 2023 in O.S.No.210 of 2005 on the file of the Additional District Munsif, Alandur and consequently allow the I.A.Nos.1, 3 and 2 of 2023.



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For Petitioners : Mr.M.Thangadurai in all the CRPs

For Respondents : Mr.T.M.Mano in all the CRPs

COMMON ORDER

These Revisions are filed aggrieved by the orders passed in I.A.Nos.1, 3 and 2 of 2023 in O.S.No.210 of 2005 respectively dated 13.03.2023 on the file of the Additional District Munsif, Alandur. Since the three petitions were disposed of by way of a common order these three revisions are also being disposed of by way of a common order.

2. The petitioners have filed O.S.No.210 of 2005 seeking permanent injunction restraining the respondents from interfering with the peaceful possession and enjoyment of the schedule of property. After pleadings were completed, issues were framed and the 2nd plaintiff was examined as PW1 and certain documents were marked. At that stage three Interlocutory Applications were filed for re-opening of PW1 evidence, receiving of documents and re-calling of PW1 for marking of further documents, in IA.Nos.1 to 3 of 202 respectively.



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3. It is submitted by the learned counsel for the petitioners that these documents are very vital to prove the case of the petitioners therefore sought for the reliefs of re-opening PW1 evidence, receiving of documents and re-calling of PW1 for marking of further documents.

4. The respondents on the other hand submitted that all the applications were merit-less and the reasons for re-opening of the evidence was not explained and on hearing both sides these three applications were rightly dismissed by the learned trial Judge by way of the impugned order. Hence, he sought for dismissal of these revisions.

5. Heard both sides. Perused the records including the impugned order passed by the learned trial Judge carefully.

6. It is recorded by the learned trial Judge in the order that the suit filed by the petitioners was dismissed for default in the year 2012 subsequently reopened in the year 2013. After closure of plaintiffs' evidence the matter was posted for defendants' side evidence. The defendants' side evidence was also closed and the suit was posted for



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arguments. At that juncture, the petitioners filed application for reopening the plaintiffs' evidence and the same was allowed. Aggrieved by the reopening of the evidence for the plaintiffs the respondents have preferred CRP.No.105 of 2020 and the same was allowed thereby the matter was again posted for arguments. After taking number of adjournments for arguments the applications in question were filed before the trial Court.

7. The settled legal proposition is that once entire evidence is completed and when the matter is posted for arguments, the parties are not permitted to reopen the case and recall the witness for marking of certain documents, on this ground itself the revision cannot be entertained.

8. Further on a perusal of the affidavit filed by the petitioners before the trial Court shows that there are no specific reason as to why he could not file these documents at earlier point of time. The documents which are proposed to be filed are of the year 2013. Though a number of opportunities were there for the petitioners they did not choose to file the



same before the Court. The petitioners have once filed the application to reopen the case after posting the matter for arguments. Even at that stage also the petitioners did not choose to file the proposed documents.

9. The petitioners have filed a simple suit for injunction against the respondents in the year 2005. The petitioners were expected to file all the documents through which the petitioners are basing their claim along with the suit itself. However in spite of taking more than 18 years still the petitioners wanted to reopen the evidence for filing of certain documents. This is not a suit for declaration of title, where the documents in respect of title are required to be pleaded before the Court. In a suit for simple injunction, the question of title will have to be proved incidentally. However, the petitioners should have made efforts to file the relevant documents at appropriate time.

10. Considering the circumstances, the trial Court has rightly dismissed all the applications, and this Court finds no reason to interfere with the orders passed by this trial Court, therefore the revisions fail and



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Dr.D.NAGARJUN, J.

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are accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

28.06.2023

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Index :Yes/No

Internet :Yes/No

Neutral Citation :Yes/No

Speaking order/Non-Speaking order

To:-

The Additional District Munsif,
Alandur.

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