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CRP.(PD).No. 2168 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM:

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

CRP.No. 2168 of 2023

and

CMP.No. 13185 of 2023

Dr.M.R. Yuvaraj @ Yuvaraj Ram Manda

... Petitioner

Versus

1. M.R. Raviraj

2. M.R. Lavaraj

3. A.V. Saraswathi Ram

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 17.04.2023 passed in I.A.No. 4 of 2023 in O.S.No. 223 of 2018 on the file of Additional District Judge (FTC), Vellore.

For Petitioner : Mr. S. William

For Respondent-1 : Mr. P. Gunaraj



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 17.04.2023 passed in I.A.No. 4 of 2023 in O.S.No. 223 of 2018 on the file of Additional District Judge (FTC), Vellore.

2. The revision petitioner is the 2nd defendant and the 1st respondent is the plaintiff and the respondents 2 & 3 are the defendants 1 & 3 in the original suit proceedings.

3. On a careful perusal of the records, it is seen that the first respondent/plaintiff filed the suit in O.S.No. 223 of 2018 before the Additional District Court, Vellore, for partition. During the pendency of the suit proceedings, the petitioner/2nd defendant filed I.A.No. 4 of 2023 under Section 151 of CPC., seeking to reopen the case on the side of the petitioner/2nd defendant to let in evidence by Chief Examination. After perusing the records, the Court below allowed the IA on condition that the petitioner/2nd defendant to pay costs of Rs.200/- to the respondents 1 & 2 on or before 24.04.2023, but the petitioner/2nd defendant has not complied with the conditional order dated 17.04.2023 passed by the



Court below and therefore, the Court below dismissed the IA on 05.06.2023 for non-compliance of the above order. Aggrieved by the said order, the petitioner/2nd defendant has filed the present Revision.

4. The contention of the petitioner/2nd defendant is that the suit was posted for the 1st defendant's side evidence as she was unwell and could not attend the Court to depose her evidence. Further, the Court below closed the evidence on the side of the defendants. Hence, one more opportunity to put forth his evidence by chief evidence ought to have been granted without closing the evidence on the 2nd defendant's side. Therefore, the petitioner prays to set aside the findings of the Court below.

5. The contention of the 1st respondent/plaintiff is that several opportunities were granted to depose evidence to the petitioner/2nd defendant but the petitioner/2nd defendant was not ready to get along and drag on the proceedings and therefore, the 2nd defendant's side evidence was closed rightly by the Court below. While so, the petitioner has not stated any bona-fide/valid reasons so as to reopen and recall the



2nd defendant's side evidence. Hence, the above Revision is liable to be dismissed.

6. The first respondent/plaintiff states that several opportunities were granted to the petitioner/2nd defendant to let-in evidence but the petitioner has not come forward to file the petition at the time of first hearing when the case was posted for arguments. The petitioner/2nd defendant filed the IA seeking to reopen the case to adduce evidence on behalf of DW1 after the case was posted for arguments. Even though the respondents objected for reopening the evidence of the petitioner/2nd defendant and hence, the petition was filed only to drag on the proceedings but not made any serious objection for reopening the evidence of the petitioner.

7. Considering the relationship of the parties as well as the petitioner/2nd defendant is a senior citizen, this Court is inclined to give one more opportunity to the petitioner to reopen and recall the evidence on the side of the 2nd defendant and other relevant documents if any to be filed before the Court below on or before 01.08.2023. After receiving



all other documents, the trial Court is directed to give three adjournments only to the petitioner/2nd defendant for cross-examination of DW1 and to complete the entire process.

8. Accordingly, this Civil Revision Petition is allowed on payment of costs of **Rs.10,000/- each [Rupees Ten Thousand Only]** to the **respondents on or before 28.07.2023**. The order dated 05.06.2023 passed in I.A.No. 4 of 2023 in O.S.No. 223 of 2018 on the file of Additional District Court, Vellore, is hereby set aside. The petitioner/2nd defendant is directed to let-in evidence on behalf of his side and further, the trial Court is directed to dispose of the suit as expeditiously as possible. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

12.07.2023

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1. The Additional District Judge (FTC), Vellore.
2. The Section Officer, V. R. Section, High Court of Madras.



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V.BHAVANI SUBBAROYAN, J

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