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C.R.P.Nos.121 and 122 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

**CORAM
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**C.R.P. Nos.121 and 122 of 2022
and C.M.P.No.694 of 2022**

Kavitha .. Petitioners in both petitions

Vs

Sekar ...Respondent in both petitions

Common Prayer : Civil Revision Petitions filed under Article 227 of Constitution of India, praying to set aside the order passed in I.A.Nos. 2 and 1 of 2021 in O.S.No.1 of 2012 dated 14.09.2021 on the file of the Principal Sub-Court, Dharmapuri and allow these Civil Revision Petitions.

For Petitioner : Mr.K.Gandhikumar
(in both petitions)

For Respondent : Mr.V.Sakkarapani
(in both petitions)

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioner, challenging the impugned order passed by the Principal Sub Court, Dharmapui, made in I.A.Nos.2 and 1 of 2021 in O.S.No.1 of 2012 dated 14.09.2021.



2. Originally, the plaintiff/respondent herein filed the suit in O.S.No.1 of 2012 on the file of the Principal Sub Court, Dharmapuri. During pendency of the suit proceedings, the revision petitioner/2nd defendant filed the applications in I.A.Nos.2 and 1 of 2021 before the trial Court to permit the petitioner to examine her as DW2, who is the purchaser of the property and also permitting her to produce certain additional documents. Prior to her, DW1-Sub Registrar was examined, who is the third party. Now the plaintiff/respondent herein raised objection stating that before examining the third party/Sub Registrar, the defendant has not obtained permission/leave of the Court by invoking Order XVIII Rule 3A of C.P.C.,

3. On hearing both sides, the trial Court had dismissed both the applications. Challenging the said findings of the trial Court, the revision petitioner/2nd defendant has preferred these Civil Revision Petitions.

4. The learned counsel for the revision petitioner submitted that the petitioner/second defendant is not aware of the said proceedings. By inadvertently, the Sub Registrar was examined as DW-1 and the suit was filed by the plaintiff for the relief of specific performance and opportunity was not given to the petitioner. Hence, the learned counsel for the petitioner prayed to allow these petitions



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5. The learned counsel for the respondent submitted that already DW1 was examined, the 2nd defendant has not obtained permission/leave of the Court invoking Order XVIII Rule 3A of C.P.C. He further submitted that the petitioner has filed these petitions only to drag on the proceedings. Hence, he prayed to dismiss these petitions.

6. Considering the rival submissions, this Court finds that the revision petitioner/second defendant is the purchaser of the property and she claiming title over the property. Hence, a fair opportunity is to be given to the revision petitioner/2nd defendant to prove her claim. Otherise, the valuable right of the defence will be defeated. Therefore, the order passed by the Principal Sub Court, Dharmapui, made in I.A.Nos.2 and 1 of 2021 in O.S.No.1 of 2012 dated 14.09.2021 are to be set aside.

7. Accordinlgy, these Civil Revision Petitions are allowed and the order passed by the Principal Sub Court, Dharmapui, made in I.A.Nos.2 and 1 of 2021 in O.S.No.1 of 2012 dated 14.09.2021 are hereby set aside. Consequently, connected miscellaneous petition is closed. No costs.

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Internet : Yes/No
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T.V.THAMILSELVI, J.

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To

The Principal Sub Court, Dharmapuri.

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and C.M.P.No.694 of 2022

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