



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.02.2023**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**C.R.P.Nos.3902 and 3938 of 2022**

**and**

**C.M.P.No.20457 of 2022**

1.Sesu Rajakili

2.F.Mariya Chandran

... Petitioners (in both CRPs)

Vs.

Dora Suseela

... Respondent (in both CRPs)

**Prayer in C.R.P.No.3902 of 2022:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 02.11.2022 passed in I.A.No.1 of 2022 in O.S.No.279 of 1999 c/w O.S.No.412 of 2004, on the file of Principal District Munsif, Alandur.

**Prayer in C.R.P.No.3938 of 2022:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 02.11.2022 passed in I.A.No.2 of 2022 in O.S.No.279 of 1999 c/w O.S.No.412 of 2004, on the file of Principal District Munsif, Alandur.

For Petitioners

: Mr.N.Prakash

For Mr.T.M.Mano ( in both CRPs)

For Respondent

: Mr.M.Thangadurai ( in both CRPs)



## **ORDER**

The Civil Revision Petitions are filed to set aside the order dated 02.11.2022 passed in I.A.Nos.1 and 2 of 2022 in O.S.No.279 of 1999 c/w O.S.No.412 of 2004, on the file of Principal District Munsif, Alandur.

2. The revision petitioners are the defendants in the Suit and the respondent instituted a Suit for Declaration and Recovery of Possession.

3. It is not in dispute that the trial concluded long back and the Suit was posted for arguments on several occasions. Pertinently, the Suit was posted for arguments and at that stage, the respondent / plaintiff filed Interlocutory Application in I.A.No.221 of 2019 to re-open the case for further plaintiff's side evidence. The Trial Court allowed the petition on costs. But the plaintiff did not examine any witness on their side, instead they have filed another Interlocutory Application in I.A.No.464 of 2019 to issue witness summons to one Arulmani and the said application was dismissed by the Trial Court on merits on 16.07.2019. Again the Suit was posted for arguments. The respondent / plaintiff filed Interlocutory Applications in I.A.Nos. 734 and 735 of 2019 to re-open and re-call P.W-1 for cross-examination and the said petitions were dismissed by the Trial Court on 16.10.2019. Again the case was



posted for arguments and the plaintiff filed another Interlocutory Application in I.A.No.1041 of 2019 under Order XVI Rule 1 read with Section 151 of the Civil Procedure Code to permit the revision petitioner to issue witness summon to Mr.Nelson in the above case and the said application was dismissed by the Trial Court on 09.03.2022. Against the said order, a Civil Revision Petition in C.R.P(PD) No.1006 of 2022 was filed and the said Civil Revision Petition was dismissed by this Court on 13.06.2022.

4. The revision petitioner filed another Interlocutory Application in I.A.No.238 of 2022 under Order VI Rule 17 read with Section 151 of the Civil Procedure Code and the said petition was allowed on 08.04.2022. Again the case was posted for arguments. At that point of time, the present Interlocutory Application was filed.

5. The Trial Court formed an opinion that the intention of the respondent / plaintiff was to drag on the proceedings and the said attitude cannot be entertained by the Trial Court. While holding so, the Trial Court formed further opinion that the Advocate Commissioner's report and sketch were marked as Exhibit C1 and Exhibit C2 on 04.08.2022 and therefore, further opportunity is to be granted to the respondent / plaintiff.



6. Going on developing the case at every stage is impermissible at the instance of the parties. The Suit was instituted in the year 1999 and pending for the past about 23 years before the Trial Court. It is most unfortunate that the Suit is pending before the Trial Court for 23 years and even after posting the matter for arguments for more than five (5) times, the Trial Court allowed the present Interlocutory Application merely on the ground that further opportunity is to be granted to the respondent / plaintiff.

7. When the Trial Court formed an opinion that the plaintiffs are dragging on the proceedings, no further leniency is to be shown to the plaintiff and if at all any new ground is to be raised, it is for the parties to raise it at the appropriate stage and even in the First Appeal, such grounds may be raised and therefore, under the guise of the said pleadings, no Suit shall be allowed to drag on.

8. The approach of the Trial Court in the present case is not in consonance with the established principles. Once the trial commenced, Court shall not grant any unnecessary adjournments or allow the Interlocutory Applications filed with an ill-motive to prolong and protract the proceedings.



9. In the present case, the Court made a finding that the respondent / plaintiff is dragging on the proceedings, while so, there is no reason whatsoever to allow the Interlocutory Application for the purpose to re-call and re-open the witnesses.

10. Allowing a petition with costs would cause prejudice to the interest of the defendants in the present case. Parties, who have not vigilantly pursued the Suit are not entitled to seek any relief at the fair end of the Suit. Once the Suit was posted for arguments, the Trial Court shall not give any further scope for re-opening of the evidences, which would cause prejudice to either of the party and no party shall be allowed to develop their case at every stage, which would be violative of the spirit of the procedures contemplated under the Code of Civil Procedure.

11. The findings of the Trial Court that the intention of the respondent / plaintiff is to drag on the proceedings and thereafter, allowing the claim of the respondent / plaintiff is a contradictory view and thus, this Court is inclined to consider the Civil Revision Petition.



12. Accordingly, the Fair and Decretal order dated 02.11.2022 passed in I.A.Nos.1 and 2 of 2022 in O.S.No.279 of 1999 c/w O.S.No.412 of 2004 is set aside and consequently, the Civil Revision Petition in C.R.P.Nos.3902 and 3938 of 2022 stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

**06.02.2023**

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

The Judge,  
Principal District Munsif,  
Alandur.



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C.R.P.Nos.3902 and 3938 of 2022



**S.M.SUBRAMANIAM, J.**

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