



C.R.P. Nos.4106 & 4107 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.4106 & 4107 of 2023

and

C.M.P. No. 25065 of 2023

1. G.Sasikala
2. G.Shoba

... Petitioners in
both C.R.P.s

Vs

1. Nilavarasan
2. G.Chitraimalli
3. Selva Elavarasan
4. The Sub-Registrar,
Velachery,
Chennai-600 042

... Respondents in
both C.R.P.s

PRAYER in C.R.P.No. 4106 of 2023 : Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and decreetal order dated 09.10.2023 passed in I.A.No.6 of 2023 in O.S.No.65



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of 2017 by the learned XVI Asst. Judge, City Civil Court, Chennai and allow
the C.R.P.

PRAYER in C.R.P.No. 4107 of 2023 : Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and decreetal order dated 09.10.2023 passed in I.A.No.5 of 2023 in O.S.No.65 of 2017 by the learned XVI Asst. Judge, City Civil Court, Chennai and allow the C.R.P.

For Petitioners in
both C.R.P.s : Mr.L.Dhamodharan

For Respondents in
both C.R.P.s : Mr.S.Veeraraghavan for R3

COMMON ORDER

Challenging the impugned orders passed in I.A.Nos.5 and 6 of 2023 in O.S.No. 65 of 2017 passed by the learned XVI Asst. Judge, City Civil Court, Chennai, the revision petitioners/defendants 1 and 2 preferred these Civil Revision Petitions.



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2. Before the trial court, the Revision Petitioners/defendants 1 and 2 have filed interlocutory applications praying to recall P.W.1 for cross-examination and to reopen the case. Considering submissions of both sides, those applications were dismissed by the trial judge holding that to drag on the proceedings and without any bonafide reasons, the applications were filed, thereby, the same were dismissed. Aggrieved over the said findings, the plaintiff preferred these Civil Revision Petitions.

3. Originally, the respondents/plaintiffs 1 to 3 have filed suit in O.S.No.65 of 2017 seeking for the relief of declaration of settlement deed and other consequential relief against the defendants 1 to 3. According to them, the evidence of P.W.1 was already recorded and it was closed by the trial judge much earlier in the year of 2018 itself. Thereafter, during the pendency of the proceedings, the petition in Tr.O.P.No. 110 of 2021 was filed to transfer the connected suit in O.S.No.5094 of 2013 and the said petition was allowed and ordered to try along with the suit in O.S.No.65 of 2019. Subsequently, evidence was adduced and now the evidence was



closed by both sides and the case is posted for arguments. At that time, the defendants have filed the said applications to reopen and recall P.W.1 in order to elucidate certain facts with regard to acquisition proceedings as well as extension of settlement deed. Those applications were strongly objected by the respondents/plaintiffs 1 to 3 stating that after completion of evidence, in order to fill up the lacuna, the defendants came forward with those applications after 6 years from the date of filing the suit and no proper reason was assigned. But, the learned counsel for Revision Petitioners would submit that on perusal of documents, they found some vital documents, which are necessary to elucidate the plaintiff's claim in respect of suit property, since they have approached the court for the relief of declaration. However, by way of reply, the learned counsel for 3rd respondent/plaintiff would submit that he has adduced all the vital documents and also produced evidence with regard to acquisition proceedings. Therefore, the reasons assigned by the Revision Petitioners as such is not maintainable in law.



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4. Records perused. On considering both sides submissions and on perusal of records, it reveals that in one suit, evidence was closed in the year of 2018 itself, and thereafter, the Transfer Original Petition was filed and the same allowed only in the year of 2021 and now the suit was tried along with the suit in O.S.No.65 of 2017. Admittedly, now the evidence was closed in both sides. But, the defendants have filed the said applications stating that they are having certain documents with regard to acquisition proceedings, so, they wanted to produce the same. The documents are public documents and by marking the same, no prejudice would be caused to both parties, even though the documents were produced on the side of plaintiffs. Furthermore, the learned counsel for Revision Petitioners would submit that except the recall of D.W.1, they are not going to adduce any other evidence on their side. Therefore, in order to give one more opportunity, this Court is inclined to set aside the findings rendered by the trial judge in I.A.Nos.5 and 6 of 2023 in O.S.No. 65 of 2017 and both the applications are ordered to be allowed. The Revision Petitioners are directed to adduce appropriate evidence within a period of four weeks from the date of receipt of copy of this order. Thereafter, the trial judge is directed to complete the trial and



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dispose the case within a period of six weeks. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

20.11.2023

Index : Yes/No
Speaking Order : Yes/No
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To

XVI Asst. Judge,
City Civil Court,
Chennai.

T.V.THAMILSELVI, J.



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