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C.R.P.Nos.1355, 1357 and 1363 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R. P. Nos.1355, 1357 and 1363 of 2023

and

C.M.P. No.9097 of 2023

1.B.Baby

2.J.B.Uma

3.J.B.Siva

.. Petitioners in all the CRPs

Vs.

K.Jeyamani

. Respondents in all the CRPs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair order dated 06.08.2022 and decretal order dated 30.08.2022 made in I.A. Nos. 1, 2 and 3 of 2022 in O.S.No.642 of 2018 on the file of the learned I Additional District Munsif, Salem by allowing the Civil Revision Petition.

For Petitioners : Mr.E.Duraivaiyapuri

For Respondent : Mr.T.S. Vijaya Raghavan



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COMMON ORDER

These Civil Revision Petitions are filed questioning the common order passed by the learned I Additional District Munsif, Salem in I.A. Nos. 1 to 3 of 2022 in O.S.No.642 of 2018 dated 30.08.2022.

2. According to the learned counsel for the petitioners/ defendants the respondent/ plaintiff has filed a suit for permanent injunction and during the course of trial, the respondent/ plaintiff deliberately failed to file a document. However, when the defendants were being examined, the plaintiff has confronted the said document to the witness and the defendant witness denied the same. Thereafter, the respondent filed applications in IA Nos.1 to 3 of 2022 for re-opening the plaintiffs evidence, to recall PW2 and to mark the document. The trial Court has allowed their applications, thereby the revision filed aggrieved by the same.



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3. The learned counsel for the petitioners submits that the respondent/ plaintiff having the document in her custody should have filed the document along with the plaint or atleast before the trial commenced. She has deliberately kept the document in dark and filed it in belated stage without there being any pleading in the plaint. This Court had in *M. Valliappan Vs. Ramnath @ Ayothi Chettiar* dated **20.06.2017** made in *CRP.Nos.1789 to 1791 of 2015*, had held that reopening, recalling and receiving documents after commencement of trial is barred, unless the situation warrants.

4. It is submitted by the learned counsel for the respondent that in the meanwhile the trial Court has recorded the evidence of PW2 on 30.03.2023 and the said document which is disputed by the petitioners/ defendants has already been marked and the case is posted for cross examination of the petitioners/ defendants. While appreciating the submissions made by the petitioners, since the respondent has already been examined and the document has already been marked, now at this stage no order can be passed in favour of the petitioners.



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Dr.D.NAGARJUN,J.

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5. Considering the same, these Civil Revision Petitions are disposed of as infructuous. No costs. Consequently, the connected miscellaneous petition is closed.

13.06.2023

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Index : Yes/ No

Internet : Yes/ No

Neutral Citation : Yes/ No

Speaking Order/ Non-Speaking Order

To

The I Additional District Munsif,
Salem.

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