



C.R.P(PD)(MD).No. 165 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P(PD)(MD).No. 165 of 2019
and CMP(MD)No.749 of 2019

1. Arumugam

2. Baskar

... Petitioners

Vs

1. Rajambal

2. Senthilkumar

3. Vijayakumar

4. Shobana

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Fair and Decreetal order, dated 03.07.2018 in I.A. No. 133 of 2018 in O.S. No. 190 of 2018 on the file of the learned District Munsif cum Judicial Magistrate Court, Alangudi by allowing this Civil Revision Petition.

For Petitioners : Mr.G.Sridharan

For Respondents : No Appearance (R1 to R4)



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ORDER

To set aside the fair and decreetal order, dated 03.07.2018 in I.A. No. 133 of 2018 in O.S. No. 190 of 2018 passed by the learned District Munsif cum Judicial Magistrate, Alangudi, the revision petitioners have filed this Civil Revision Petition.

2.The petitioners are the respondents/defendants and the respondents are the petitioners/plaintiffs before the Court below. For the sake of convenience, the parties are referred to as per the litigative status before Court below. Despite the name of respondents printed in the cause list, neither the respondents nor their counsel appeared before this Court.

3.The brief facts, which give rise for filing the instant civil revision petition are as follows:

(i)It appears that the petitioners have filed a suit for the relief of declaration and injunction. They had filed an application to reopen the plaintiff's side evidence on the ground to let in further evidence in respect of four boundaries and to prove their possession.



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(ii)The said application was resisted by the respondents/defendants on the ground that the instant application is the fourth petition for seeking re-open of the case. The present application has been filed, after the matter was posted for Judgment in February, 2012. It is further stated in their counter statement that the petitioners have unnecessarily filed CMA(SR) and Tr.O.P petitions before the District Court and in the way, they dragged the matter for a period of five years. When they lost in all these battles, they came up with the application to reopen their side evidence. Therefore, it was contended in the counter statement that the instant application is hit by *resjudicata*. Though the Court below, has mentioned the conduct of the petitioners is not bonafide, allowed the application.

4.Aggrieved with the order, the petitioners/plaintiffs have filed the present revision petition before this Court.

5.I have given my anxious consideration to either side submission.



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6.The learned Judge has recorded all the misdeeds committed by the petitioners. However, by simply referring as if to give an opportunity, he has allowed the application. It is pertinent to mention here that as rightly submitted by the learned counsel for the petitioners, the Court below could not find any reason to allow the application. It is curious to note that the learned trial Judge has believed the case of the petitioners.

7.As rightly contended by the respondents/defendants that the very attempt of the petitioners/plaintiffs in dragging the matter could be seen from the counter statement in paragraph No.6, wherein, it has been stated that the instant application is filed after a period of five years, that too, after the matter was posted for Judgment. It is pertinent to mention that suit is of the year 2008. Therefore, such a conduct of the petitioners could not be encouraged. Hence, this Court is inclined to allow this revision.

8.Accordingly, this Civil Revision Petition is allowed by setting aside the order dated 03.07.2018 in I.A. No. 133 of 2018 in O.S. No. 190 of 2018, passed by the learned District Munsif cum Judicial



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Magistrate Court, Alangudi. Considering the long pendency of the suit, the trial Court is directed to dispose the suit within a period of three months, since the matter is already in the stage of argument.

9. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

07.08.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

1. The District Munsif cum Judicial Magistrate, Alangudi

2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN, J.,

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