



C.R.P.(MD).No.2809 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.2809 of 2018

and

C.M.P(MD) No.12208 of 2018

1. M.Selvaraj
2. Purusothaman (died) ... Petitioners/Petitioners/Plaintiffs 1 and 2

3. P.Nirmala devi
4. P.Mahalakshmi
5. P.Bhuvaneswari
6. P.Hariharan ... Proposed Petitioners
(Petitioners 3 to 6 are brought on record as
Legal heirs of deceased 2nd petitioner vide Court
order dated 23.07.2020 made in C.M.P(MD)
No.10100 and 10101 of 2019)

-VS-

Namasivayam Pillai (died)

1. Sivalaya Theaters
Represented by its Managing Partner,
A.Loganathan
Sivalaya Theater,
Karur Bypass Road,
Trichy.

2. A.Loganathan ... Respondents/Respondents/Defendants



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PRAYER: Civil Revision Petition is filed under Article 227 of C.P.C, against the fair and decreetal order dated 03.11.2018 passed in I.A.No.502 of 2015 in O.S.No.151 of 1989 on the file of the I Additional District Munsif, Tiruchirappalli.

For Petitioners : Mr.R.Sundar Srinivasan
For Respondents : Mr.V.R.Shanmuganathan

ORDER

The present Civil Revision Petition has been filed by the petitioners under Article 227 of C.P.C, against the fair and decreetal order dated 03.11.2018 passed in I.A.No.502 of 2015 in O.S.No.151 of 1989 on the file of the I Additional District Munsif, Tiruchirappalli.

2. The petitioners herein are the plaintiffs 1 and 2 before the trial Court.

3. The short facts, which gives rise to the instant Civil Revision Petition are that, the petitioners filed a suit in O.S.No.151 of 1989 for the relief of bare injunction in respect of “A to E” schedule property. It appears from the records that, the petitioners has filed two Commission Applications in I.A.No.380 of 1999 and I.A.No.620 of 2002. The above applications were closed on 01.10.1999 and on 08.10.2003 respectively as the petitioners did not evince any interest to take out the Commission.



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4. It appears that, thereafter, the petitioners have filed yet another Commission Application in I.A.No.858 of 2003, wherein, the Commissioner has filed a report. After that, again the petitioners filed an application in I.A.No.650 of 2004 to re-issue of Commission. Again, since the petitioners have not evinced any interest to proceed further, I.A.No.650 of 2004 was closed on 27.07.2015. Not satisfying the closure of the orders, again the petitioners has filed an application in I.A.No.502 of 2015 for re-opening the I.A.No.650 of 2004. However, the request was rejected by the Court below on the ground of suppression of fact and also on the ground that the very application has been filed to prolong the litigation.

5. The learned counsel for the respondents has explained to this Court that the very attempt made by the petitioners is only with an intention to prolong and protract the case and would submit that they succeeded in prolonging the case for more than 30 years and would submit that there is no merit in this application.



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6. This Court has given anxious consideration to the submissions of the learned counsel on either side.

7. As indicated herein above, the very attitude and conduct of the petitioners filing Commission Applications one after another and not following it up, would only fortify that the very intention in filing the Commission Application is not to elucidate any facts to the Court, but only to delay and prolong the litigation. The petitioners were also filing applications time and again and they were able to prolong the litigation for more than 30 years, which was rightly observed by the learned trial Judge, and the applications were ultimately rejected.

8. Therefore, this Court is not inclined to interfere with the order of the learned trial Judge. However, considering the conduct of the petitioners, this Court is inclined to award a cost of Rs.15,000/- (Rupees Fifteen Thousand only) payable to the respondents within a period of four weeks from the date of receipt of the copy of this order. If cost is not paid within the above period, the suit will be dismissed.



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9. In the result , this Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The I Additional District Munsif,
Tiruchirappalli.



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C.KUMARAPPAN,J.

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