



CRP(MD).Nos.2484 and 2485 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

CRP(MD).Nos.2484 and 2485 of 2022 and
CMP(MD).Nos.12165 and 12167 of 2022

Muruganantham Ammal

... Petitioner in both cases

-Vs-

Jeyagopal (died)

- 1.Vanja
- 2.Thiripurasundari
- 3.Mangaiyarkarasi
- 4.Gokulraj

... Respondents in both CRPs.

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of the Constitution of India against the order, passed in un-numbered I.A.No.SR.Nos.2215 and 2296 of 2022 in O.S.No.82 of 2016, dated 10.11.2022 and 14.11.2022 respectively on the file of the District Munsif, Sathankulam.

For Petitioners in both CRPs : Mr.P.Pethu Rajesh

COMMON ORDER

The revision petitioner is the defendant in O.S.No.82 of 2016 before the District Munsif Court, Sathankulam. The suit has been filed for a



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mandatory injunction to direct petitioner to execute the sale deed pursuant to the sale agreement. In the said suit, the petitioner also filed written statement during the month of March 2017.

2. It is the case of the petitioner that the application filed by the petitioner for filing an additional written statement under Order 8 Rule 9 CPC and for appointment of an Advocate Commissioner under Order 26 Rule 9 CPC have been rejected without even numbering the Interlocutory Applications.

3. It is submitted that the trial Court committed a grave error in rejecting the applications without even numbering the same.

4. These Civil Revision Petitions were listed for admission on 12.12.2022 and thereafter, has been adjourned twice and is listed today.

5. I have perused the order passed by the learned District Munsif, Sathankulam in the respective I.As.



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6. The said applications have been filed by the petitioner, after the evidence of defendant was closed. The petitioner has filed these two applications after a period of one year

7. Cr.P(MD).No.2484 of 2022 has been filed challenging the order, dated 10.11.2022 made in un-numbered I.A. Nil of 2022 and in the said order, the trial Court has passed the following order:

“6. After that, the case was adjourned, for appearance of DW.1 for cross for 2 hearings and on 08.11.022 itself DW.1 not present, but the plaintiffs side counsel present and ready for cross. Hence, the DW.1 evidence was closed. On the same day, this petitioner / defendant filed this petition to receive addition written statement. Further, in the petition affidavit, it is stated that only that some facts with regard to the plaint schedule property was not mentioned and description of property is wrong, but he has not stated what was the wrong and when it was found and why it was not noted for more than 6 years. In addition to that, he admitted that it was happened due to his carelessness.

7. Considering the facts and circumstances of the case, the age and stage of the case and reason stated in



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the affidavit, there is no merits in this petition at this stage and it will prolong the proceedings. Hence, the petition is rejected.”

8. Similar reason has been given in other Interlocutory Application. Challenging the same CRP(MD).No.2485 of 2022 has been filed by the petitioner.

9. The suit is of the year 2016 and applications were filed before the trial Court on 08.11.2022. The petitioner also did not appear before the trial Court. Instead, the petitioner filed the applications to receive the additional written statement and for appointing an Advocate Commissioner to drag on the proceedings.

10. Since the applications were filed by the petitioner at the time when the case was listed for arguments after the evidence of the petitioner side also closed since the petitioner failed to appear for cross examination, the trial Court was therefore justified in dismissing the applications although without numbering the applications filed by the petitioner, as a result of which, further delay is caused.



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11. These Civil Revision Petitions are liable to be dismissed.

These are accordingly dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed. Nevertheless, petitioner is required to be cross examined, as otherwise, the evidence of petitioner is liable to be eschewed.

12. The petitioner shall therefore, appear for cross-examination on the next date of hearing before the District Munsif, Sathankulam if the suit has already not been disposed or decided in favour of the respondent. The rights of the petitioner to raise all objections available under Section 41(b) of the Specific Relief Act, 1963 stands preserved during of final arguments, if the suit has not already been disposed or decided in favour of the respondent.

16.03.2023

Index : Yes / No
Internet : Yes/ No
trp

To

The District Munsif, Sathankulam.



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C.SARAVANAN,J.,

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