



C.R.P.(PD).Nos.493 and 495 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).Nos.493 and 495 of 2023
and C.M.P.No.4022 of 2023

Sathish

... Petitioner
(in both CRPs)

VS

R.Muralidaran

... Respondent
(in both CRPs)

Common Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 27.09.2022 made in I.A.Nos.4 and 5 of 2021 in O.S.No.504 of 2016 on the file of the IV Additional District Munsif Court, Salem.

For Petitioner : Mr.D.Sathya
(in both CRPs)

For Respondent : Mr.S.Kalyanaraman
(in both CRPs)

COMMON ORDER

These Civil Revision Petitions arise against the order passed by the IV Additional District Munsif at Salem in I.A.Nos.4 and 5 of 2021 in O.S.No.504 of 2016, dated 27.09.2022.

2. O.S.No.504 of 2016 is a suit for declaration of title that the plaintiff



is entitled to 'B' schedule mentioned property, and for recovery of possession, and for permanent injunction not to interfere with 'A' schedule mentioned property.

3. The claim of the defendant primarily nests upon a plea of adverse possession. According to him, his forefathers were in enjoyment of the property from the year 1967 and being in continuous possession for over 40 years, their right had crystallised into adverse possession. Therefore, he sought for dismissal of the suit.

4. During the course of trial, the plaintiff examined himself as PW.1 and the order impugned in these revisions, would reveal that he was cross examined at length. Thereafter, the civil revision petitioner examined himself as DW.1 and one another witness was examined as DW.2. The matter was posted for further evidence on the side of the defendant on 12.11.2021 and adjourned on his request for the same purpose to 18.11.2021. On 18.11.2021, the present applications to reopen and recall PW.1 for cross examination came to be filed.

5. The learned Trial Judge taking into consideration that PW.1 has been



examined at length decided to dismiss the applications. She held that as reasons for reopening and recalling the evidence of PW.1 had not been stated, the applications not deserve consideration.

6. Heard Ms.D.Sathya, learned counsel appearing for the petitioner and Mr.S.Kalyanaraman, learned counsel appearing for the respondent.

7. The narration of the aforesaid facts would go to show that the defendant's side want to further cross examine PW.1 on some crucial aspects, which they did not ask at the time of his initial cross examination.

8. I am not in agreement with the learned IV Additional District Munsif that the reasons for cross examination had not been set forth in the affidavit. The purpose of cross examination is to elicit from the plaintiff, facts which would support the case of the defendant, if the defendant where to disclose as to what are the questions he seeks to ask, then the purpose of cross examination would be lost. However, taking into consideration that the suit has been pending from the year 2016 and in order to prevent the defendant



from taking a plea that sufficient opportunity was not granted to him to cross examine the plaintiff, I am inclined to consider the case of the revision petitioner.

9. At the same time, I have to take note of the fact the suit has been pending for 8 years and the defendant cannot attempt to prolong the litigation endlessly. Therefore, I propose to pass the following orders:-

- (a) The PW.1 will present himself for cross examination on 22.07.2024 before the Trial Court.
- (b) On that very day, the defendant will cross examine the plaintiff on all aspects and evidence of PW.1 will be closed on the same day, i.e., 22.07.2024.

10. As a condition for reopening and recalling PW.1, the civil revision petitioner/defendant shall pay a sum of Rs.5,000/- as costs per application. In all a cost of Rs.10,000/- would have to be paid by the defendant to the plaintiff. The learned IV Additional District Munsif Court, Salem shall confirm the receipt of payment of Rs.10,000/- and only thereafter, give the



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benefit of Clause (a) and (b) of the order to the defendant. In case, the defendant fails to pay a sum of Rs.10,000/-, the benefit of cross examination will not enure to the defendant. The IV Additional District Munsif Court, Salem, is requested to take note of the fact the suit is pending for 8 years and therefore, she will dispose of the suit by pronouncing the judgment in the case on or before 31.08.2024.

11. With the above directions, the Civil Revision Petitions are allowed. There shall be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

10.07.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

Note: Issue order copy on 11.07.2024.

To

The IV Additional District Munsif Court,
Salem.



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V.LAKSHMINARAYANAN, J.

dm

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