



C.R.P.(PD)No.356 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.356 of 2023

and

C.M.P.No.2972 of 2023

R.Devaraj

.. Petitioner

Vs.

Minor Dharnish

Guardian by Mother Neelaveni

.. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 30.09.2022 made in I.A.No. Unnumbered of 2022 in O.S.No.454 of 2012 on the file of the District Munsif at Udumalpet, Tiruppur District.

For Petitioner : Mr.R.Rajadurai

For Respondent : Mr.N.Umapathy

ORDER

The present Civil Revision Petition arises against the order passed in I.A.No.Unnumbered of 2022 in O.S.No.454 of 2012.



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2. O.S.No.454 of 2012 has been filed for a declaration that the cancellation of the settlement deed executed by the 1st defendant in favour of the plaintiff on 14.09.2004 is null and void.

3. On service of summons, the defendants entered appearance and filed a written statement.

4. It is not in dispute that the evidence has been completed on both sides and the matter was listed for arguments. At that stage, pleading that certain records have to be produced by the defendants, they would seek to reopen the evidence of the 2nd defendant.

5. A perusal of the date shows that the case was open for trial on 15.06.2019 and it was closed on 06.07.2019 as the defendants did not cross examine the plaintiff. Thereafter, P.W.2 was examined and his evidence was scrapped on account of the fact that he did not present himself for cross examination.

6. In order to cross examine P.W.1, an application was filed by the 2nd



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defendant and the same also came to be allowed. P.W.1 was recalled and was examined in cross on 21.01.2021, and on that day, the evidence was closed. Thereafter, the matter was adjourned from 04.03.2021 till 07.10.2021 for the evidence on the side of the defendants. There was no representation on 07.10.2021 and therefore, the evidence was closed.

7. Yet again, an application came to be filed for reopening the evidence on the plaintiff's side by the 2nd defendant and that also came to be allowed, and P.W.1 was cross examined by the 2nd and 3rd defendants on 17.09.2022. The plaintiff's side evidence was closed and the matter was listed for arguments.

8. After having got the benefit of dragging on the matter for nearly 3 years from 2019 to 2022, yet another application was moved by the 2nd defendant to reopen his side to let in evidence. The learned District Munsif came to the conclusion that the idea of the defendants was only to drag on the proceedings and keep the litigation pending, and he came to a conclusion that sufficient opportunities had been granted to the defendants and therefore, dismissed the petition even at the numbering stage itself.



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Aggrieved by the said order, the present civil revision petition has been presented before this Court.

9. Heard Mr.R.Rajadurai, appearing on behalf of the petitioner and Mr.N.Umapathy, appearing on behalf of the respondent.

10. The narration of the aforesaid facts will go to show that the plaintiff has repeatedly been recalled and examined, and at no point of time, the defendants have taken any effort to let in any evidence. The entire idea of the defendants seem to be to keep the pot boiling and endlessly pull on the litigation. At the same time, I cannot foreclose the evidence of the 2nd defendant as he is entitled to put his defences before the Court.

11. Mr.R.Rajadurai would state that important evidence in the nature of the execution of a 'Will' is involved in the litigation, and he wants to mark the said document in trial. If I were to allow the revision without any conditionalities, I am sure by the time the suit would be disposed of, the minor plaintiff himself would become a grandfather like the 2nd defendant.

12. Taking into consideration the overall circumstances, the order



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passed by the learned District Munsif at Udumalpet in I.A.No. Unnumbered of 2022 in O.S.No.454 of 2012, dated 30.09.2022, is set aside on a condition that the 2nd defendant shall pay the plaintiff a sum of Rs.10,000/- as cost for the purpose of allowing the application. If the costs are not paid on or before 09.07.2024, the benefit granted in the civil revision petition shall stand forfeited and the revision will stand automatically dismissed without any further reference to this Court.

13. If the costs are paid on or before 09.07.2024, the 2nd defendant shall file his proof affidavit on 10.07.2024 and mark the documents on 11.07.2024. The plaintiff will cross examine the 2nd defendant on 12.07.2024 and shall complete the same on or before 19.07.2024.

14. The learned trial Judge is requested to post the matter day to day and not to grant any time to enable any party to drag on the proceedings any further. He is also requested to dispose of the suit at the earliest at any event before 14.08.2024.

15. Accordingly, the Civil Revision Petition stands allowed. The



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connected Civil Miscellaneous Petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation: Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The District Munsif at Udumalpet,
Tiruppur District

C.R.P.(PD)No.356 of 2023

and

C.M.P.No.2972 of 2023

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