



CRP Nos.924 and 926 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP Nos.924 and 926 of 2024
and CMP.Nos.4651 and 4655 of 2024

K.Mylsamy

... Petitioner in both CRPs

Vs.

K.Ramasamy

... Respondent in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in I.A.Nos.3 and 4 of 2022 in I.A.No.39 of 2008 in O.S.No.279 of 2000 on the file of the III Additional Subordinate Judge, Coimbatore and allow these petitions.

For Petitioner in both CRPs : Mr.S.Gunaseelan

COMMON ORDER



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The civil revision petitions are filed praying to set aside the fair and decreetal order in I.A.Nos.3 and 4 of 2022 in I.A.No.39 of 2008 in O.S.No.279 of 2000 on the file of the III Additional Subordinate Judge, Coimbatore.

2. The revision petitioner is the defendant and the respondent is the plaintiff. According to the learned counsel for the revision petitioner/defendant, the defendant filed IA to reopen and recall PW1 for adducing additional and further evidence. It is the contention of the revision petitioner that the Advocate Commissioner filed wrong report and petition was filed to scrap the report. But the said petition was dismissed. Challenging the same, CRP was filed and the said CRP was also dismissed. Therefore, it is just and necessary to reopen evidence on the side of the defendant to establish the fact that he has been enjoying specific portion and developed the same by huge investment.

3. Before the trial court, plaintiff filed counter stating that the



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applications are intended to drag on the final decree proceedings endlessly even after dismissal of second appeal by High Court and dismissal of petition to struck off the commissioner's report in CRP and long pendency of the dispute over 22 years.

4. On perusal of the entire materials available on record would reveal that the revision petitioner/defendant filed I.A.Nos.3/2022 and 4/2022 in I.A.No.39/2008 seeking to recall PW1 and for adducing additional and further evidence. Though in the affidavit filed in support of the said IAs, it is stated that the defendant wanted to let in evidence to show his specific portion of enjoyment and development made by him and to file documentary evidence, the learned Judge found that the defendant has not filed any document along with the petition to show as to what evidence he wants to let in before the Court to establish his case. The learned Judge further found that in the absence of any specific averment in the petition necessitating to recall the witness, the trial Court dismissed the applications on the ground that the petitioner has been examined already and the evidence already



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recorded is enough to decide the case.

5. The order passed by the learned Judge, trial court, is well founded. I find no infirmity in the impugned order and I find no merits in the present civil revision petitions. Accordingly, the civil revision petitions are dismissed. In any event, since the contention of the Revision petitioner/defendant is that, the defendant is in enjoyment of specific portion of the property and made development, the trial Court is directed to consider the said submission of the petitioner/defendant while passing final decree in the suit. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.03.2024

Index: Yes/No
Internet: Yes/No
mpa

To
III Additional Subordinate Judge, Coimbatore.

The Section Officer, V.R. Section, High Court, Madras.



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V.SIVAGNANAM, J.

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