



C.R.P.No.762 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.762 of 2022

and

CMP No.3825 of 2022

P.Mahesh Kumar

... Petitioner

vs.

1. Deivanai Ammal

2. Ammani Ammal

3. Kannammal

4. Samiyathal

5. M.Banumathi

6. Sivakami

7. M.Vadivel

8. R.Deivasigamani

9. M.Selvaraj

10.P.Manjari

... Respondents

Prayer in CRP : The Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 07.12.2021 made in I.A.No.05 of 2021 in O.S.No.320 of 2019 on the file of I Additional District Munsif, Erode.



For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.K.S.Jeyaganeshan
For R.1 to R.3, R.8 to R.10
RR.4 to R7 – No appearance

ORDER

This Civil Revision Petition has been filed against the rejection of the interlocutory application, seeking to reopen the evidence of the plaintiff for the purpose of examination of one more witness and mark some documents.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The plaintiff/petitioner herein filed a suit in O.S.No.320 of 2019 before the I Additional District Munsif, Erode, for permanent injunction restraining the respondents from trespassing into the suit properties. When the respondents/defendants attempted to dispossess the plaintiff/petitioner herein from the suit property, the petitioner had filed the suit. The 8th and 9th defendants filed the written statement and the 2nd defendant adopted the same. The plaintiff's side witness was closed on 10.03.2021 and the defendant's side witness was closed on



17.11.2021. When the suit was posted for arguments, the plaintiff/petitioner has filed the interlocutory application No.05 of 2021 to reopen the plaintiff's side witness as he was unable to record a crucial witness to prove his case.

4. The lower Court has rejected the said application as the petitioner/plaintiff did not mention who is the proposed witness to be examined and plaintiff also did not file any list of witness in the suit. It is also seen from the available materials on record that already two witnesses were examined on the petitioner's/plaintiff's side and sufficient opportunity was granted to the plaintiff to examine the witnesses from 07.03.2020 till 10.03.2021. After closing the plaintiff's side evidence and the defendant's side evidence, the suit was posted for arguments on four hearings. Only thereafter, the application to reopen the evidence has been filed by the petitioner without mentioning the name of proposed witness.

5. Though, at the time of admission of the present civil revision petition i.e., on 16.03.2022, interim order was granted till 20.04.2022, subsequently, the same has not been extended. The suit is posted for arguments. The petitioner/ plaintiff was given sufficient opportunity for



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recording evidence. Therefore, the application to reopen the evidence on the side of the plaintiff is only to prolong the case and therefore, it cannot be entertained. This Court finds no infirmity or illegality in the order passed by the trial Court. Hence, the Civil Revision Petition stands dismissed. No costs. However, the trial Court is directed to dispose of the suit on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

26.02.2024

Index : Yes/No

Speaking: Speaking/Non speaking order
vsi

To

I Additional District Munsif Court,
Erode



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J.NISHA BANU, J.

vsi

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