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CRP No.1320 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

C.R.P. Nos.1320, 1310 & 1311 of 2024 &
CMP.No.6987 of 2024

R.Subash Alagar ... Petitioner/Plaintiff in all CRPs.,

Vs

Sugitha Chandrasekaran ... Respondent/Defendant in all CRPs.,

Common Prayer : Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal common order dated 07.12.2023 in I.A.Nos.1, 2 & 3 of 2023 in O.S.No.446 of 2019, on the file of the Additional District Munsif at Alandur

For Petitioner : Mr.M.Thangadurai

For Respondent : Mr.K.S.Madhavan

COMMON ORDER

This Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decreetal common order dated 07.12.2023 in I.A.Nos.1, 2 & 3 of 2023 in O.S.No.446 of 2019, on the file of the Additional District Munsif at Alandur.



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2. The plaintiff/petitioner filed a Suit in O.S.No.446 of 2019 in which after completion of evidence on the side of the petitioner and at the stage of advancing the arguments on the defendant/respondent side, three Applications in I.A.Nos,1,2 & 3 of 2023 filed by the petitioner seeking to reopen the case for further chief examination of PW-1, to recall the marking of further documents and to receive the documents mentioned in the petition viz., adangal, property tax receipt, LPG gas receipt, Family card, EB Card respectively in the name of the petitioner. The Trial Court by its common order dated 07.12.2023 dismissed the said Applications. Aggrieved over the same, the present Civil Revision Petitions preferred.

3. The contention of the petitioner is that marking of those documents would be of importance to substantiate that the petitioner is in possession and enjoyment of the property and though the Suit is for bare injunction, the respondent has intentionally threatened the petitioner's peaceful possession and enjoyment of the property on the ground that she is the owner of the property. He would further submit that earlier respondent filed a Suit against the vendor of the petitioner in O.S.No.83 of 2005, before the Sub-Court, Chengalpattu and suffered a decree against her,



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against which she had not preferred any appeal. The learned counsel would further submit that for reopening of the evidence to mark the documents by the petitioner, only one hearing would be sufficient and there would not be much delay or dragging on the part of the petitioner. He would submit that marking of these documents by the petitioner would be helpful for the Trial Court to arrive at a fair and just conclusion.

4. On the contrary, the learned counsel for the respondent would submit that neither the vendor of the petitioner nor the petitioner have any right or title and the interest over the suit property, just because, the alleged sale deed dated 08.05.2019, executed by the vendor of the petitioner is not a valid document. He would further submit that in the earlier Suit filed by the petitioner in O.S.No.483 of 2013, an Advocate Commissioner was appointed, who after inspection filed a report on the basis of the Revenue records and hence, the petitioner withdrawn the said Suit as not pressed. He would submit that the petitioner has intentionally suppressed the finding of the earlier Suit in O.S.No.483 of 2013 and a report of the Advocate Commissioner in the said Suit. Further, he would submit that the Suit in O.S.No.83 of 2005, does not pertain to the property of the present Suit and



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the Trial Court considering the objections had rightly dismissed all the Applications. In support of his contentions, the learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Ram Rati vs. Mange Ram (Dead) Through Legal Representatives & Ors.***, reported in ***(2016) 11 SCC 296***, wherein the Hon'ble Apex Court held that the power to recall or reopen cannot be invoked to fill up any omission or lacuna in evidence already led by witness or on ground that thereby no prejudice would be caused to the parties and this power being discretionary should be exercised sparingly, while ensuring that trial would not be proceeded any further.

5. Considering the submissions and perusal of the materials placed on record, it is seen that the Trial Court found that the petitioner was examined in Chief on 05.10.2021 and thereafter, the case was posted for cross examination on 07.12.2021 and the cross examination was also completed on 12.08.2022. Now the petitioner/plaintiff's side argument completed on 09.02.2023 and for hearing the respondent/defendant's side argument, the case was directed to be posted on 14.02.2023. At that stage of the matter, on 14.02.2023, the petitioner filed those Applications to reopen the



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petitioner/plaintiff side evidence, recall PW1 and receive additional documents as evidence. Further, it is seen from the records which are proposed to be filed, are the documents obtained from the authority after 2019 i.e., after filing of the said Suit. The said Suit is for bare injunction and those documents which are proposed to be marked are all obtained for the purpose of defeating the rights of the respondent.

6.In view of the same, the findings of the Trial Court seems to be just and proper and hence, this Court is not inclined to entertain these Civil Revision Petitions and accordingly the same are dismissed. The Trial Court is directed to proceed with the matter without being influenced of any of the observations made in this order. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Internet :Yes/No



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To
The Additional District Munsif, Alandur

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