



C.R.P. No.2341 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.10.2024

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. No.2341 of 2024

Chinnaraj

... Petitioner

VS

1.Jayammal

2.Swaminathan

3.Pasuvaraj

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 18.01.2024 passed in I.A. No.9 of 2023 in O.S. No.373 of 2018 passed by the Principal Sub Court, Dharmapuri.

For petitioner : Mr.N.Saravanan

For respondents : Mr.Avinash Wadhvani for
Ms.V.Srimathi
for R1

R2 & R3 notice served



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C.R.P. No.2341 of 2024

ORDER

This revision has been filed seeking to set aside the fair and decretal order dated 18.01.2024 passed in I.A. No.9 of 2023 in O.S. No.373 of 2018 by the Principal Sub Court, Dharmapuri.

2.The brief facts of the case, which are relevant for this revision petition, are as follows:

The petitioner is the plaintiff in O.S. No.373 of 2018. During the course of Trial, when the case was posted for cross examination of P.W3, the petitioner/plaintiff had filed I.A. No.8 of 2023 seeking to re-open the evidence and examine one Govindasamy as a witness. The Court had directed the petitioner/plaintiff to issue notice of hearing and posted the matter for hearing on 01.09.2023. On the day, there was no representation for the petitioner/plaintiff and thereby, the Trial Judge had dismissed I.A. No.8 of 2023. Seeking to restore the same, the petitioner/plaintiff had filed I.A. No.9 of 2023.



C.R.P. No.2341 of 2024

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3.The Trial Court has observed that when the case was posted for additional evidence on the side of the petitioner/plaintiff, since the petitioner/plaintiff had not produced any additional witness, the additional evidence on the side of the petitioner/plaintiff was closed on 01.09.2022 and thereafter, the case had crossed several levels and that after one year, when the case was posted for cross examination of D.W.3, I.A. No.9 of 2023 has been filed for restoration. The Trial Court, finding that the petitioner/plaintiff had not stated any reason for not producing any additional evidence on 01.09.2022, had dismissed I.A. No.9 of 2023. Against the dismissal, the present revision has been filed by the petitioner.

4.The learned counsel for the petitioner submitted that the petitioner/plaintiff had earlier entered into an agreement with one Govindasamy and that the petitioner/plaintiff paid some amount from his own funds and thereby, it was necessary to examine the said Govindamy. The learned counsel for the petitioner further submitted that notice was ordered in I.A. No.8 of 2023 and that the petitioner/plaintiff had taken notice on the



C.R.P. No.2341 of 2024

counsel for the respondents/defendants, however, on 27.09.2023, when the case was listed for hearing, the petitioner/plaintiff was unable to appear before the Court and thereby, the Court had dismissed I.A. No.8 of 2023 and immediately within 15 days, the petitioner/plaintiff had filed I.A. No.9 of 2023 seeking to restore the application. Whereas the Trial Court, wrongly finding that the petitioner/plaintiff had not served any notice and that no reasons have been adduced by the petitioner/plaintiff to re-open the evidence at the earlier point of time, had dismissed I.A. No.9 of 2023. He would further submit that the examination of Govindasamy is relevant for this case and thereby, he would seek for setting aside the order passed by the Trial Court.

5.Per contra, the learned counsel for the first respondent would submit that the evidence on the side of the petitioner/plaintiff was closed on 01.09.2022 itself. Thereafter, the defence witnesses have been examined and when the case was posted for cross examination of D.W.3, the petitioner/plaintiff had filed I.A. No.8 of 2023 seeking to re-open and to examine one Govindasamy. The Trial Court had issued notice and posted



C.R.P. No.2341 of 2024

the matter on 27.09.2023. But, on the day, the petitioner/plaintiff did not appear and thereby, the Trial Court dismissed I.A. No.8 of 2023.

Subsequently, the petitioner/plaintiff had filed I.A. No.9 of 2023 to restore the same. The Trial Court, finding that the petition to re-open had been filed much belatedly and that the petitioner/plaintiff had not taken any steps diligently to bring the witness, had dismissed the above application. The Court had also found that the intention of the petitioner/plaintiff was only to delay the process and that no reasons have been adduced for the examination of the additional witness. The learned counsel for the first respondent further submitted that as on date, the case stands posted for arguments and that if this revision is allowed, it would amount to opening the case for retrial.

6.Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the evidence available on records.

7.From the records, it is seen that when the case was posted for cross examination of D.W.3 on 01.09.2022, since there was no additional witness



C.R.P. No.2341 of 2024

on the side of the petitioner/plaintiff, the additional evidence on the side of the petitioner/plaintiff was closed on 01.09.2022 itself. The petitioner/plaintiff had filed an Interlocutory Application in I.A. No.8 of 2023 to re-open and let in additional evidence. Since the petitioner/plaintiff did not appear before the Court, I.A. No.8 of 2023 was dismissed by the Trial Court. Thereafter, the case went through several stages and after one year, when the case was posted for cross examination of D.W.3, the Trial Court had found that the petitioner/plaintiff had not stated any reason for letting additional evidence and that no details have been stated as to whom additional evidence sought to be examined and thereby, dismissed the same.

8.From the above, it is clear that the petitioner has filed the application only to protract the trial. The Trial Court, rightly finding the same, has dismissed the application. As stated above, having gone through the records, I do not find any illegality or infirmity in the order passed by the Trial Court. Accordingly, this revision petition stands dismissed. No costs.

23.10.2024



C.R.P. No.2341 of 2024

Index: Yes/No
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C.R.P. No.2341 of 2024

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The Principal Sub Court,
Dharmapuri.



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C.R.P. No.2341 of 2024

A.D.JAGADISH CHANDIRA, J.

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C.R.P. No.2341 of 2024

23.10.2024