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C.R.P. Nos.1657 and 1659 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. Nos.1657 and 1659 of 2021

and C.M.P. No.12861 of 2021

M. Pounraj S/o. Late Muthusamy

..... Petitioner common in
both CRPs

Vs.

M. Samidurai S/o. Late Muthusamy Respondent common in both CRPs

PRAYER: These Civil Revision Petitions are filed under Section 227 of Constitution of India praying to set aside the order and decree passed in I.A. Nos.8 and 9 of 2021 in O.S. No.171 of 2018 dated 16.04.2021 on the file of Principal District Munsif Court, Tiruchengode.

For Petitioner : Mr. B. Jawahar [both C.R.P.s]
For Respondent : Mr. T.L. Thirumalaisamy
[both C.R.Ps]

COMMON ORDER

These petitions are filed by the petitioner challenging the orders passed in I.A. Nos.8 and 9 of 2021 in O.S. No.171 of 2018 on the file of Principal District Munsif Court, Tiruchengode, wherein the petitioner has filed said petitions to reopen the case and to recall PW1 respectively and those



C.R.P. Nos.1657 and 1659 of 2021

applications were dismissed by the Trial Court. Against which, the present civil revision petitions have been preferred.

2. According to the petitioner, he is the defendant in the Suit and the respondent filed a Suit for the relief of declaration in respect of cart track and already the Plaintiff's side witnesses were examined. At the time of cross examination of PW1, some vital points in respect of the sub division and other important things, omitted to be mentioned and thereby, they filed petitions to recall PW1 for elaborate cross examination. Since already the plaintiff's side evidence was closed, he has also filed a petition to re-open the case under Section 151 of Code of Civil Procedure. The Trial Court dismissed the petitions. Hence, petitioner / defendant filed the present civil revision petitions.

3. According to the respondent, he is the Plaintiff in the main Suit and already the Plaintiff's side evidence was closed after elaborate cross examination of PW1 on various dates. After 10 months from the date of examination of PW1, the PW2 was examined. Therefore, only to delay the proceedings, now the petitioner has filed these petitions.



C.R.P. Nos.1657 and 1659 of 2021

4. Before the Trial Court, no oral or documentary evidences adduced on either side. After hearing both sides, the Trial Court dismissed both the applications.

5. The learned counsel appearing for the petitioner would contend that the petitioner is the defendant in the main Suit and the Suit is filed by the respondent herein for the relief of declaration in respect of Cart track and already both sides witnesses were examined and at the time of cross examination of PW1, some vital points and questions were omitted to be put on PW1 and therefore, the petitioner / defendant filed petition to reopen the Plaintiff's side evidence and to recall PW1 for further cross examination. The Trial Court without considering and without giving sufficient opportunity to the defendant, dismissed the applications. Therefore, the orders passed by the Trial Court are liable to be set aside.

6. The learned counsel appearing for the respondent would contend that already the petitioner has elaborately cross examined PW1 and on so many dates, PW1 was cross examined and now after completion of both sides' evidence, when the matter was posted for arguments, only to delay the proceedings, he filed the petitions to reopen the case and recall PW1. In



C.R.P. Nos.1657 and 1659 of 2021

respect of Survey Nos.172/1 and 172/2, PW1 was cross examined by the petitioner and already sufficient opportunities were given to the petitioner.

Considering the above said aspects, the Trial Court has correctly dismissed the petitions. Hence the orders passed by the Trial Court are in accordance with law. Therefore, the Civil revision petition are liable to be dismissed.

7. Heard both sides'. Perused all the materials available on record.

8. In this case, it is an admitted fact that already the petitioner, being a defendant, elaborately cross examined PW1 and thereafter PW2 was already examined and after closing the evidence of Plaintiff's side, the defendant side witnesses were also examined and now the case is posted for arguments. At that stage, the present petitions were filed to reopen the Plaintiff's side evidence to recall PW1. According to the petitioner, some of the important questions were not put on PW1. He was not cross examined in respect of sub divisions and thereby, PW1 has required to be further cross examined.

9. This Court perused the order of the Trial Court and the Trial Court, in its orders itself held that already the petitioner put questions to the PW1 in respect of Survey No.172/1 and 172/2 and PW1 was elaborately cross



C.R.P. Nos.1657 and 1659 of 2021

examined on various dates and thereafter defence side witnesses were also examined. After completion of evidence on both sides, when the matter is posted for arguments, the petitioner has filed those applications. The Trial Court has already given ample chance to the petitioner and they also cross examined the witnesses. Therefore, the Trial Court after giving sufficient reasons, has dismissed the petitions. Therefore, the order of the Trial Court is in order and there is no perversity or infirmity found in the orders passed by the Trial Court.

10. In view of the above discussions, this Court is of the opinion that the Civil Revisions Petitions have no merits and deserve to be dismissed.

11. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

11.07.2024

Index : Yes/No
Speaking order/non-speaking order
mjs

P.DHANABAL, J.,



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C.R.P. Nos.1657 and 1659 of 2021

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To

The Principal District Munsif Court, Tiruchengode.

C.R.P. Nos.1659 and 1657 of 2021

11.07.2024