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C.R.P.Nos.2217 & 2220 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.Nos.2217 and 2220 of 2020 and
C.M.P.Nos.13960 &13966 of 2020

- 1.Venkatesan
- 2.Mallika
- 3.Devika
- 4.S.Ragupathi @ Senthilkumar
- 5.S.Rajeswari

... Petitioners in both C.R.P.'s

Vs.

- 1.Jayaraman (died)
 - 2.Dhanam
 - 3.Chinnammal
 - 4.J.Nallathambi
 - 5.Kavitha
 - 6.Nirmala
- (R-1 died, R3 to 6 brought on record
as LR's of deceased R1 Viz., Jayaraman
vide Court orderdated 16.02.2023 made
in CMP.No.2232 to 2234 of 2023 in
CRP.No.2217 of 2020 and dated 13.02.2024
made in CMP.No.5598, 5601 & 5602/2023
in CRP.No.2220/2020)

...Respondents in both C.R.P.'s



C.R.P.Nos.2217 & 2220 of 2020

PRAYER in C.R.P.No.2217 of 2020: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and final order dated 09.01.2020 made in I.A.No.697 of 2019 in O.S.No.308 of 2012 on the file of the II Additional Sub-Ordinate Court, Salem.

For Petitioner	: Mr.K.S.Karthik Raja
For respondent 1	: Died
For respondent 2	:Mr.S.T.Bharath Gowtham for M/s.T.R.Rajaraman

PRAYER in C.R.P.No.2220 of 2020: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and final order dated 09.01.2020 made in I.A.No.69 of 2019 in O.S.No.308 of 2012 on the file of the II Additional Sub-Ordinate Court, Salem.

For Petitioner	: Mr.K.S.Karthik Raja
For respondent 1	: Died
For respondent 2	:Mr.S.T.Bharath Gowtham for M/s.T.R.Rajaraman
For respondents 3 to 6	: served- No appearance.

COMMON ORDER

These Civil Revision Petitions are filed challenging the orders passed by the Trial Court dismissing the applications filed by the petitioners seeking to re-open the case and to recall P.W.3.



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2. The respondents herein filed a suit for partition. When the suit was posted for arguments after completion of trial, the petitioners filed petition to re-open the case and to recall P.W.3 for the purpose of cross-examination.

3. The Trial Court, after a perusal of case papers observed that when P.W.3 was examined, the petitioners' counsel reported "no cross". Therefore, regarding the same, the trial proceeded. After completion of petitioners'/defendants' side evidence, the suit was posted for arguments. After taking several adjournments, the petitioners filed an application in I.A.No.509 of 2019 to re-open the case and to recall P.W.2. The said application was dismissed by the Trial Court on merits. Thereafter, the petitioners took several adjournments and then filed the instant application seeking to re-open the case and to recall P.W.3.

4. When petitioners were afforded with opportunity to cross-examine P.W.3, they said 'No cross'. Now, at the belated stage, the application has been filed to re-open the case and to recall P.W.3 for the purpose of cross-



examination. In the affidavit filed in support of the application, it was stated by the petitioners that at the relevant point of time, their counsel was out of station and hence, he could not cross-examine P.W.3. However, the Trial Court after perusal of the case papers observed that petitioners reported 'No cross'. Therefore, the averments made in the affidavit appeared to be not correct.

5. Taking into consideration a similar application was filed to recall of P.W.2 and the same was dismissed at the stage of arguments, the Trial Court correctly came to the conclusion that petitioners filed these applications only to drag on the proceedings and dismissed the same. I do not find any error in the orders passed by the Court below. Accordingly, these Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

23.02.2024

Index : Yes / No

Internet : Yes / No

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To

The learned II Additional Sub-Ordinate Judge, Salem.



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S.SOUNTHAR, J.

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