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C.R.P.Nos.3077 & 3078 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3077 & 3078 of 2021

and

C.M.P.Nos.21695 & 21690 of 2021

- 1.Varadharaj
- 2.Jaisankar
- 3.Kalaivani
- 4.Vanitha
- 5.Sangeetha

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

Vs.

- 1.Ramalingam
- 2.Manikraj
- 3.Poolakshmi

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

PRAYER in CRP.No.3077 of 2021: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 13.08.2021 in I.A.No.1 of 2021 in O.S.No.301 of 2014 on the file of the Principal District Munsif, Tirupattur, Vellore District

PRAYER in CRP.No.3078 of 2021: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 13.08.2021 in I.A.No.2 of 2021 in O.S.No.301 of 2014 on the file of the Principal District Munsif, Tirupattur, Vellore District



C.R.P.Nos.3077 & 3078 of 2021

For Petitioners in both C.R.P's : Mr.R.Rajarajan
For Respondents in both C.R.P's : Notice served-No appearance

COMMON ORDER

These Civil Revision Petitions are filed challenging the orders passed by the Court below dismissing the applications filed by the petitioners/plaintiffs seeking to re-open the case and to re-call P.W.1.

2. The petitioners herein filed a suit for declaration, permanent injunction and mandatory injunction in respect of suit channel. The recording of evidence in the case is closed on both the sides and the matter is posted for arguments. At this stage, the present applications are filed seeking re-opening of the case and recall of P.W.1.

3. In the affidavit filed in support of these applications, it was averred by the petitioners that they got some important documents in respect of suit channel and the same have to be marked through P.W.1 and Village Administrative Officer and to enable him to mark those documents, the suit may be re-opened and P.W.1 may be recalled.



4. The Court below dismissed the said applications on the ground that petitioners have not mentioned what are all the important documents received by them to prove their case and hence, the present applications have been filed only to protract the suit proceedings.

5. Heard the arguments of the learned counsel for the petitioners. In spite of service of notice on the respondents, nobody entered appearance for the respondents and their names are printed in the cause list. However, there is no representation for the respondents .

6. The petitioners filed the present suit seeking declaration of their right to irrigate water to item 1 of the suit property through suit channel marked as ABCD in the plaint plan. They also sought for injunction restraining the respondents from obliterating the suit channel. The petitioners further sought for mandatory injunction to restore the suit channel which was obliterated and described in item 2 of the suit property in Survey No.174/1. It is the case of the petitioners that they received certain important documents with regard to the suit channels and the same would be useful to prove their case. It is settled



law that procedural law is only a handmaid of the substantial justice and therefore, evidence of the party need not be shut down at the threshold by citing technicalities. Of course, there is some delay on the part of the petitioners in filing application. Taking into consideration the delay on the part of the petitioners in filing the present applications, this Court feels it appropriate to allow the revision petitions by imposing cost on the petitioners.

7. In view of the discussions made earlier, both the Civil Revision Petitions are allowed on condition that the petitioners shall deposit a sum of Rs.5000/- (Rupees five thousand only) each towards cost to the credit of O.S.No.301 of 2014 on the file of the learned Principal District Munsif, Tirupattur, Vellore District within a period of three weeks from today. The respondents are permitted to withdraw the same. In case of non-payment of costs within the time stipulated, the Civil Revision Petitions shall stand dismissed without further reference to the Court.

02.02.2024

Index : Yes / No
Internet : Yes / No
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C.R.P.Nos.3077 & 3078 of 2021.

S.SOUNTHAR, J.

nr

To

The learned Principal District Munsif, Tirupattur, Vellore District

C.R.P.No.3077 & 3078 of 2021

and

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