



C.R.P. (PD) .No. 3661 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2024

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3661 of 2024

&

C.M.P.No.19887 of 2024

S.P.Nicholas

...Petitioner

Vs.

1.Desam Arulraj

2.Tahsildar
Taluk Office,
Tiruvallur

...Respondents

Prayer: Petition is filed under Article 227 of the Constitution of India against the order made in I.A.No.14 of 2024 in O.S.No.204 of 2008 on the file of the Additional District Munsif, Tiruvallur.



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For Petitioner : Mr. R.Ramal Laal
For Respondent 1 : Mr. C.Ramesh
For Respondent 2: Mr. N.Muthuvel
Government Advocate.

ORDER

This Civil Revision Petition arises against the order passed by the learned Additional District Munsif, Tiruvallur in I.A.No.14 of 2024 in O.S.No.204 of 2008 dated 12.04.2024.

2. The plaintiff is the civil revision petitioner. O.S.No.204 of 2008 is a suit for declaration that the plaintiff is the owner of the suit property and for consequential relief of injunction restraining defendants from interfering with the possession and enjoyment thereof.

3. To this suit, a detailed written statement has been filed by the 1st defendant. The parties on the basis of the aforesaid pleadings went for Trial.



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4. The plaintiff examined himself as P.W.1 and completed his examination. Thereafter, he wanted to summon one Mr. Enamela Anthony Reddy in order to depose in the suit. He took out an application to summon the witness and the witness also appeared before the Court in compliance thereof. The matter was listed for examination of the witness on 27.02.2024. When the witness was available, the learned counsel for the plaintiff reported “*no instructions*”. Therefore, left with no other alternative, the witness summon was closed with further direction to pay batta to the witness, who had appeared before the Court.

5. Consequently, the plaintiff filed an application to re-open the plaintiff's side evidence. The purpose of re-opening the evidence was to examine P.W.2 again. The learned Trial Judge numbered this petition as I.A.No.14 of 2024. After receipt of a counter from the defendant, the learned Trial Judge proceeded to dismiss the application. Hence, this revision.



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6. I heard Mr.Raman Laal for the civil revision petitioner and Mr.C.Ramesh for the 1st respondent.

7. The narration of the above facts would show that the plaintiff was permitted to summon Mr.Enamela Anthony Reddy. After he had appeared before the Court, the plaintiff's counsel refused to proceed with the matter.

8. Mr.Raman Laal pleads that the learned counsel has been changed and a new counsel has been appointed to present the suit. Hence, there is a miscommunication. Mr.C.Ramesh states that by one method or the other, the suit had been prolonged.

9. A perusal of the order shows that the plaintiff had examined himself and marked as many as 44 documents. For the mistake committed by the learned counsel, for not examining the witness summoned to the Court, the party should not suffer.



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10. Taking into consideration the fact that the suit is still at the stage of Trial, I am inclined to allow the Civil Revision Petition. However, as the plaintiff's side have dragged on the proceedings, I am inclined to impose cost as a condition precedent to allow the civil revision petition.

11. In the light of the above, the following orders are passed:

(i) The Civil Revision Petition is allowed. The order passed in I.A.No.14 of 2024 dated 12.04.2024 is set aside on condition that plaintiff pays a sum of Rs.5,000/- to the 1st defendant by 08.11.2024.

(ii) In case the plaintiff does not pay the amount to the 1st defendant, the Civil Revision Petition shall stand dismissed without further notice to the Court.

(iii) The Trial Judge shall issue summons to Mr.Enamela Anthony Reddy to appear.

(iv) The plaintiff shall pay a sum of Rs.2500/- to the



said witness. Only on payment of the cumulative amount of Rs.7500/-, the plaintiff will be entitled to examine P.W.2.

(v)The examination shall be completed on the day on which P.W.2 appears before the Court. In case the Court feels that further questions remain, the matter shall be adjourned to the next day.

12. With the above observations, the Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition is closed.
No costs.

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Index : Yes/No
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The Additional District Munsif,
Tiruvallur.

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V.LAKSHMINARAYANAN, J.



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