



C.R.P.Nos.3641 & 3643 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.Nos. 3641 & 3643 of 2022 and
C.M.P.Nos.19270 and 19272 of 2022

1.S.Parvatham

2.S.Gopalakrishnan

3.Sangeetha

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

Vs.

M.Gomathi

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

PRAYER in C.R.P.No.3641 of 2022 Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 21.07.2022 passed in I.A.No.10 of 2022 in O.S.No.465 of 2018 on the file of the Principal District Munsif, Erode.

PRAYER in C.R.P.No.3643 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 21.07.2022 passed in I.A.No.9 of 2022 in O.S.No.465 of 2018 on the file of the Principal District Munsif, Erode.

For Petitioners in both C.R.P's. : M/s.S.Rajendrakumar

For Respondent in both C.R.P's. : Mr.Ranganathan Ganesh
for M/s.R.Karthikeyan



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COMMON ORDER

These Civil Revision Petitions are filed challenging the order passed by the Court below dismissing the application filed by the petitioners seeking to re-open the case and to recall P.W.1.

2.The 2nd petitioner herein filed a suit for declaration of his right over the suit and injunction in O.S.No.181 of 2019.

3.The respondent herein filed a suit for bare injunction in O.S.No.465 of 2018 in respect of the very same property. Admittedly, both the suits are tried together and the evidence of respondent/plaintiff in O.S.No.465 of 2018 is already closed and the matter is posted for recording the evidence of petitioners/defendants in O.S.No.465 of 2018. At this stage, the instant applications have been filed by the petitioners seeking to re-open the case and recall P.W.1.



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4. In the affidavit filed in support of the applications, it is stated by the petitioners that only when the petitioners had discussion with their counsel, it came to their knowledge that some important questions relating to suit properties were not addressed to P.W.1 when he was cross-examined. Therefore, in order to enable the petitioners to cross-examine P.W.1 in respect of those important matters, the instant applications have been filed by the petitioners.

5. The Court below dismissed the applications filed by the petitioners on the ground that petitioners failed to mention the important questions which are likely to be addressed. If the questions which the petitioners intend to address P.W.1 are included in the affidavit filed in support of the petitions, there is every likelihood the witness will come with prepared answer. Hence, the reasoning given by the Court below for dismissing the applications is not acceptable to this Court. Therefore, the impugned orders are liable to be set aside.



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6. Taking into consideration the evidence of respondent's/plaintiff's side is already closed and the matter is posted for recording the petitioners'/defendants' side evidence, this Court is inclined to allow these Civil Revision Petitions by imposing cost on the petitioners.

7. In view of the same, both the Civil Revision Petitions are allowed on condition that the petitioners shall make a payment of Rs.5000/- (Rupees five thousand only) each to the respondent within a period of three weeks from today. In case, the payment is made within the time stipulated, the Civil Revision Petitions stand allowed by setting aside the orders impugned in these revisions and I.A.No.9 & 10 of 2022 in O.S.No.465 of 2018 stands allowed. On the other hand, if the petitioners failed to pay the amount within the time stipulated, the Civil Revision Petitions shall automatically stand dismissed without further reference to the Court.

8. In view of the time limit fixed by the High Court in earlier revisions,



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the Court below is directed to dispose of the suit as expeditiously as possible

having the earlier directions issued by this Court in mind. No costs.

Consequently, connected miscellaneous petitions are closed.

29.01.2024

(1/2)

Index : Yes / No

Internet : Yes / No

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To

The learned Principal District Munsif, Erode.



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S.SOUNTHAR, J.

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