



CRP Nos.3873, 3874, 3875 and 3876 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP Nos.3873, 3874, 3875 and 3876 of 2022 and
CMP No.20335 of 2022 and
CMP No.20820 of 2023

Jayavel

... Petitioner

Vs.

1. Thiruvengada Gounder
2. Devi

...Respondents

PRAYER in CRP No.3873 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 18.10.2022 passed in I.A.No.3/2022 in O.S.No.412/2012 by the II Additional District Munsif, Salem.

PRAYER in CRP No.3874 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 18.10.2022 passed in I.A.No.4/2022 in O.S.No.412/2012 by the II Additional District Munsif, Salem.



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PRAYER in CRP No.3875 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 18.10.2022 passed in I.A.No.5/2022 in O.S.No.412/2012 by the II Additional District Munsif, Salem.

PRAYER in CRP No.3876 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 18.10.2022 passed in I.A.No.6/2022 in O.S.No.412/2012 by the II Additional District Munsif, Salem.

In all civil revision petitions

For Petitioner : Mr.P.Jagadeesan

For Respondents : Mr.D.Shivakumaran

COMMON ORDER

The Civil Revisions Petitions have been filed to set aside the orders, dated 18.10.2022 passed in I.A.Nos.3,4,5 and 6/2022 in O.S.No.412/2012



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by the II Additional District Munsif, Salem.

2. The facts and circumstances of the case and the issues involved in the civil revision petitions are one and the same and hence common order is passed in all the civil revision petitions.

3. The brief facts leading to the filing of Civil Revision petition is as follows:

The petitioner herein is the plaintiff in O.S.No.412/2012 and he filed the above said suit against the respondents herein/defendants " i) *to declare his right to use the pathway for men and cattle along the course mentioned as ABCDE in the schedule of property and consequently, restraining the defendants from causing obstruction or nuisance for the user of the pathway; ii) and also for mandatory injunction to remove the stones placed in the gap in the Thokkadavu.*" In the above suit, the first respondent/ first defendant filed written statement and during trial the petitioner/ plaintiff examined himself as PW1 and one another witness, viz., Village Administrative officer has been examined as PW2 and the first defendant



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examined himself as DW1. According to the petitioner, while cross examination of DW1, the photographs, which shows passage and the first defendant has attended the Mariamman Temple procession, were denied by the first defendant. Hence to mark the above photographs, he filed the petitions in I.A.Nos.3 to 6 to i) re-open the suit to enable the plaintiff to recall the PW1 and DW1; ii) to recall PW1 to adduce further evidence, iii) to recall DW1 for further cross examination and iv) to condone the delay in filing the documents. All the above applications were dismissed by the Trial Court, holding that the suit is pending for 10 years and allowing the applications would cause further delay in the suit proceedings. Challenging the above orders, the present civil revision petitions have been filed.

4. Heard the counsel for the petitioner and the counsel for the respondents and I have perused the materials on record.

5. A perusal of the records shows that, after examination of plaintiff and defendants side witnesses, the petitioner has filed the above



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applications for the purpose of marking photographs. According to the petitioner, during cross examination of DW1, the first defendant has denied the photographs, which shows the suit passage and also the first respondents has attended the Mariamman Temple procession. Admittedly, the petitioner has claimed right over the pathway, as mentioned the suit schedule. In such circumstance, he has to prove his right over the property by adducing substantial evidence. Further, the photographs showing the pathway and the procession of Mariamman Kovil festival alone will not give any right to the plaintiff to use the pathway. Also, mere denial of photographs by the first defendant will not affect the case of the petitioner/plaintiff and he can claim his right of using the pathway only by way of adducing proper evidence, other than photographs. Therefore, considering the fact that the suit is pending for more than 10 years, the Trial Court has rightly dismissed all the applications, holding that the petitioner cannot be allowed to fill up lacunae, after the cross of defendant side evidence, by adducing further evidence. As such, I find no infirmity in the orders passed by the Trial Court and all the civil revision petitions are liable



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to be dismissed as it has no merits.

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6. In fine, all the civil revision petitions in CRP Nos.3873, 3874, 3875 and 3876 of 2022 are dismissed and the impugned orders passed by the Trial Court are confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

05.02.2024

Index: Yes/No
Internet: Yes/No
mst

To

The II Additional District Munsif, Salem



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V.SIVAGNANAM, J.,

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