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CRP No.1260 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

C.R.P. No.1260 of 2024 &
CMP.No.6644 of 2024

1.S.Bhuvaneswari

2.Naresh Babu

... Petitioners/Defendants

Vs

1.Latha Manivannan

2.Mannivannan

... Respondents/Plaintiffs

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the docket order passed in I.A.No.6 of 2023 in O.S.No.216 of 2018, dated 04.10.2018 on the file of the learned Additional District Judge (FTC), Vellore and consequently reopen the defendant side evidence and to pass such further order.

For Petitioner : Mr.Adithya Varadarajan

For Respondents : Mr.V.Chandrasekaran

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the docket order dated 04.10.2018 in I.A.No.6



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of 2023 in O.S.No.216 of 2018 on the file of the learned Additional District Judge (FTC), Vellore and consequently reopen the defendant side evidence and to pass appropriate orders.

2. The defendants are the petitioners and the plaintiffs are the respondents in this Civil Revision Petition. The plaintiffs/respondents had filed a Suit seeking the following reliefs:-

a) Declaring the 1st plaintiff's right and title over the suit property and directing the defendants to vacate and deliver vacant possession of the same to her after demolishing their illegal construction and removing all encroachments at their costs and on their failure, order for the same through process of this Hon'ble Court at the plaintiffs costs with liberty to collect the same through legal processes;

b) Granting Permanent Injunction, restraining the defendants, their men, agents, servants and etc., from interfering into the plaintiffs' peaceful possession and enjoyment of the suit property.

c) Directing the defendants to pay a sum of Rs.7,49,000/- (Rupees Seven Lakhs and Forty Nine Thousand Only) as loss and damages to the Plaintiffs, for unnecessarily made them vex by driving hither and thither from Salem to Vellore by giving up their day to day essential works and thereby put to unnecessary financial loss and mental harassment;

d) Directing the defendants to pay entire costs of the suit;



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and pass such other order as deem fit and proper in the circumstances of the case.

3.The defendants/petitioners having failed to appear on 08.09.2023, before the Court below, the evidence on their side was closed. Therefore, the defendants/petitioners filed an application in I.A.No.6 of 2023, under Section 151 CPC to re-open the evidence of their side. On 25.09.2023, the Trial Court after considering the affidavit filed in support of the application, observed that the defendants/petitioners were given sufficient time to let in evidence of their side from 26.07.2023 to 08.09.2023, but no witness examined and in order to avoid further delay, the said Application was allowed subject to the condition that the defendants/petitioners shall examine the witnesses on their side on 04.10.2023 by filing the proof affidavit for their chief examination itself, failing which the application shall stand dismissed and adjourned the matter to 04.10.2023. But, on 04.10.2023, there was no representation on behalf of the defendants/petitioners till 4.45 pm and therefore, the Trial Court dismissed the Application. Against which the present Civil Revision Petition has been preferred.



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4. Heard the learned counsel appearing on either side and perused the materials placed on record.

5. The learned counsel appearing for the plaintiffs/respondents fairly submitted that he has no objection to examine the witnesses on the side of the defendants/petitioners, but his only objection is that since the Suit is of the year 2018, under the guise of examination of the witnesses, the defendants/petitioners are dragging on the trial and the same kept pending from 26.07.2023 to till date, for examining the witnesses and therefore, the Suit can be directed to be expedited.

6. Per contra, the learned counsel appearing for the defendants/petitioners submits that this Court may direct the Trial Court to list the Suit on 12.04.2024 for examination of their witnesses and the Trial Court after examining the witnesses, shall adjudicate the matter on day to day basis and pass a reasoned order as early as possible.

7. Considering the submissions made by the learned counsel appearing on either side, this Court directs the Trial Court to list the Suit on



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12.04.2024 and examine the witnesses on the side of the defendants/petitioners and on which date itself, both the defendants/petitioners and plaintiffs/respondents shall appear before the Trial Court and cooperate to expedite the disposal of the Suit. Further, the Trial Court is directed to give an opportunity to the defendants/petitioners as well as the Plaintiffs/respondents and after hearing them, pass a reasoned order on merits and in accordance with law by dealing with all factual contentions raised by both the parties as expeditiously as possible, preferably within a period of three weeks thereafter.

8.The Civil Revision Petition is disposed of on the above terms. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

02.04.2024

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Index : Yes/No

Internet :Yes/No

Note: - Issue Order copy on 04.04.2024



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M.NIRMAL KUMAR, J
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To
The Additional District Judge (FTC), Vellore

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