



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.1196 of 2021

and

C.M.P.(MD)No.6917 of 2021

1.Sarasu
2.Eshwari
3.Vasanthamani

... Petitioners

-VS.-

Rathinam

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 19.03.2021 passed in I.A.No.391 of 2019 in O.S.No.330 of 2013 on the file of the Additional District Munsif Court, Karur.

For Petitioners :Mr.M.P.Senthil

For Respondent :No Appearance



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ORDER

The Civil Revision Petition has been filed challenging the impugned order passed by the learned Additional District Munsif, Karur, in I.A.No.391 of 2019 in O.S.No.330 of 2013, dated 19.03.2021.

2.The Revision Petitioners are the plaintiffs in the suit. The suit was filed for bare injunction. During the course of trial, an application in I.A.No. 391 of 2019 was filed by the respondent/defendant to recall PW-1 to PW-3. This application was filed under Order 18 Rule 17 r/w Section 151 CPC. In the counter affidavit filed in the said interlocutory application, the Revision Petitioners/plaintiffs have detailed the innumerable adjournments granted to cross examine PW-1 to PW-3. It was further stated that I.A.No.1435 of 2015 and I.A.No.1436 of 2015 were filed and thereafter, the plaintiff was cross examined on 04.03.2016.

3.It was further contended that once again, the defendant had filed an application in I.A.No.108 of 2017 contending that certain additional information has to be clarified and for marking of documents. The said



application was dismissed on 01.02.2018, against which, the defendant had filed a revision before this Court in C.R.P(MD)No.1432 of 2018, which was dismissed by this Court. The present application in I.A.No.391 of 2019 was filed to conduct cross examination of PW-1 to PW-3.

4.The trial Court had considered the fact that though ample opportunity was given to the defendant for cross examine of PW-1 to PW-3 in I.A.No.1435 of 2015 and I.A.No.1436 of 2015 and PW-1 to PW-3 were cross examined and thereafter, the present application was filed. The trial Court has referred all the interlocutory applications filed by the defendant and the details of examination and the cross examination conducted on various dates. However, the trial Court had come to the conclusion that on payment of charges, PW-1 to PW-3 shall be cross examined and allowed the said application and aggrieved by the same, the plaintiffs have filed the present Revision Petition.

5.Despite notice was served on the respondent/defendant, none appear either in person or through Pleader.



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6.It is not in dispute that a fair opportunity has to be given to the parties to the *lis* to cross examine the truth, which is required for the Court to arrive at a conclusion. Such an procedure shall be exercised in the interest of justice. It is not an empty formality for the party to file an application to cross examine the parties to the *lis* again and again, when extensive cross examination was done on filing of two interlocutory applications on different dates. The trial Court despite recording the IAs filed by the respondent/defendant, had permitted for cross examination of PW-1 to PW-3. The trial Court is duty bound to look into the necessity for cross examination while allowing an application to cross examination. Allowing an application to cross examination is not an empty formality and it shall not be a procedure adopting delay in tactics. Such an exercise has to be contemned and cannot be condoned.

7.In view of the same, the order passed in I.A.No.391 of 2019, dated 19.03.2021 by the learned Additional District Munsif, Karur, is set aside. As the suit is of the year 2013, the trial Court is directed to conclude the entire proceedings within a period of six months from the date of receipt of a copy of



this order.

8.In the result,, the Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

19.12.2024

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No

cmr

To

The Additional District Munsif, Karur.



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N.SENTHILKUMAR, J.

cmr

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