



C.R.P.(MD)Nos.1416 & 1417 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P.(MD)Nos.1416 & 1417 of 2023
and C.M.P.(MD).No.7095 of 2023

S.Senthilselvamurugan ... Petitioner/Petitioner/Plaintiff
in Both petitions

Vs.

1.P.Sekar

2.The District Registrar (Societies),
Collector Buildings,
Thanthoni Malai,
Karur.

3.The District Collector,
Collectorate Buildings,
Thanthoni Malai,
Karur.

... Respondents/Respondents/Defendants
in Both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 06.01.2023 in I.A.Nos.3 & 4 of 2022 in O.S.No.201 of 2018, on the file of the Principal District Munsif Court, Karur.



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For Petitioner : Mr.S.Ponsenthilkumaran

For Respondents : Mr.Henri Tiphagne for R1

Mr.S.Kameswaran for R2 & R3
(in both petitions)

COMMON ORDER

These civil revision petitions arises against the fair and decreetal order, dated 06.01.2023, passed by the learned Principal District Munsif, Karur in I.A.No.3 of 2022 and 4 of 2022 in O.S.No.201 of 2018.

2.These two applications were filed with prayers firstly, to recall DW1 for further cross examination and to summon the second and third defendants for examining them as witnesses. The trial Court found that already DW1 has been cross examined. Without any reason whatsoever, the witness cannot be recalled. It is the finding of the trial Court that unless specific reasons in the application, the recall application cannot be ordered. Insofar as the other application is concerned, the trial Court came to the conclusion that the parties to the suit cannot be summoned to give evidence.



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3.Heard Mr.Mr.S.Ponsenthilkumaran, learned counsel for the petitioner, Mr.Henri Tiphagne, learned counsel for the first respondent and Mr.S.Kameswaran, learned counsel for the respondents 2 and 3.

4.The learned counsel for the petitioner would submit that when the petitioner has pleaded reasons in the affidavit, that he has got some material evidence after cross examination of DW1, such cross examination also became necessary. In view of the fact that the defendants 2 and 3, who have not to let in any evidence, the same should have been taken as sufficient reason. The petitioner could not disclose the very question itself, as that would render for cross examination otiose, as the concerned witness come up with concocted answer. According to him, since the defendants 2 and 3 are official respondents, they can still be summoned for giving evidence.

5.The said submissions were opposed by the learned counsel for the respondent, who supported the order and reasoning of the trial Court.



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6.As far as the recalling and further cross examination of DW1 is concerned, the reason which is mentioned in the order is that he was fully cross examined by the plaintiff on all vital issues in detail. When the petitioner has not stated as to what is the material and what is the purpose and merely by roughly mentioning that he has got some material, it cannot be accepted by the trial Court for recalling the witnesses. The reasoning of the trial Court cannot be found fault with. The parties to the suit cannot be summoned as a witness and cannot be compelled to give evidence by the other parties to the suit. Therefore, both the interlocutory applications were rightly dismissed by the trial Court and accordingly, finding no grounds to interfere, these civil revision petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.07.2024

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

To

1.The Principal District Munsif, Karur.

2.The Section Officer,
E.R.Section/V.R.Section,

4/6



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Madurai Bench of Madras High Court, Madurai.

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D.BHARATHA CHAKRAVARTHY, J.

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