



C.R.P.(MD)Nos.1566 and 1567 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)Nos.1566 and 1567 of 2024

and

C.M.P.(MD)No.9285 of 2024

C.R.P.(MD)No.1566 of 2024:-

Arulraj

...Petitioner/Petitioner/Plaintiff

Vs.

1.Nallathambi

2.Kamalam

3.Thondiraj

4.Uma

5.R.Moorthy

6.Chitra

7.Thaines

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.26 of 2023 in O.S.No.96 of 2022 on the file of the District Munsif, Karaikudi, dated 21.03.2024.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mrs.S.Prabha for R2
Mr.R.Manickam for R4 to R7
No appearance for R1



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C.R.P.(MD)No.1567 of 2024:-

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Arulraj

...Petitioner/Petitioner/Plaintiff

Vs.

1.Nallathambi

2.Kamalam

3.Thondiraj

4.Uma

5.R.Moorthy

6.Chitra

7.Thaines

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.27 of 2023 in O.S.No.96 of 2022 on the file of the District Munsif, Karaikudi, dated 21.03.2024.

For Petitioner : Mr.R.Balakrishnan

For Respondents : Mrs.S.Prabha for R2
Mr.R.Manickam for R4 to R7
No appearance for R1

* * *



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COMMON ORDER

Heard both sides.

2.The plaintiff in O.S.No.96 of 2022 on the file of the District Munsif Court, Karaikudi is the revision petitioner in these civil revision petitions. The plaintiff had filed O.S.No.96 of 2022 on the file of the District Munsif Court, Karaikudi for the relief of declaration and permanent injunction. After the plaintiff's side was closed, the contesting defendants examined D.W.1. After the defendants' side evidence was closed, the plaintiff filed I.A.Nos.26 and 27 of 2023 for re-opening the defendants' side and for recall of D.W.1. Both the I.As were dismissed by the Court below vide order dated 21.03.2024. Challenging the same, these civil revision petitions have been filed.

3.The learned counsel for the revision petitioner submitted that the petitioner deserves to be given one more opportunity. He points out that the first defendant was set *ex parte*. He filed an I.A. for setting aside the order whereby he was set *ex parte*. Along with the said I.A., he had filed written statement. The plaintiff claims that the said written statement contains some vital admissions. All that the plaintiff wants is to further cross examine D.W.1



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by referring to the unfilled additional written statement. The plaintiff's counsel's states that the plaintiff deserves to be given one more opportunity to do so.

4.The learned counsel for the respondents submitted that the impugned orders are well reasoned and that interference is not warranted.

5.I carefully considered the rival contentions and went through the materials on record. It is seen that D.W.1 was examined on 06.01.2020. He was cross examined in part on the said date. Thereafter, the case was adjourned to 13.01.2020, 07.02.2020, 21.02.2020, 02.03.2020 and 05.03.2020. Since the plaintiff was not ready to cross examine the said witnesses, on 09.03.2020, the defendants' side was closed.

6.The trial Court was justified in taking a view that the plaintiff had not come immediately before the Court. In fact, the present I.As, were filed in July 2023. Thus, there is a gap of more than 3 ½ years. It is not as if the plaintiff was not given opportunity. He failed to avail the same. It is also pointed out that I.As were filed only when the suit was posted for judgment. The Court below rightly came to the conclusion that the plaintiff wants to adopt dragging on tactics. Interference is not warranted. The civil revision petitions are



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dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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09.08.2024

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

The District Munsif Court,
Karaikudi.



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G.R.SWAMINATHAN, J.

ias

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