



C.R.P.(MD)No.2193 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)No.2193 of 2023
and C.M.P.(MD).No.11110 of 2023

Shanthi ... Petitioner/Petitioner/1st Defendant

Vs.

1.Sangeetha
2.Ramesh ... Respondents 1 & 2/Respondents 1 & 2
/Plaintiffs
3.Muthukrishnan
4.Mayil Ramachandran ... Respondents 3 & 4/Respondents 3 & 4
/Defendants 3 & 4

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order made in I.A.No.14 of 2023 in O.S.No.18 of 2014 on the file of the Sub Court, Valliyoor, dated 17.07.2023 and allow the Civil Revision Petition.

For Petitioner : Mr.N.S.Ramakrishna Dass

For Respondents : Ms.B.Benazir Begum for R1
No Appearance for R2 to R4



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ORDER

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This civil revision petition is filed to set aside the fair and decreetal order of the learned Subordinate Judge, Valliyoor, dated 17.07.2023 made in I.A.No.14 of 2023 in O.S.No.18 of 2014.

2.The suit is filed for declaration that the earlier decree in O.S.No. 411 of 2012 as null and void and for declaration of the sale deeds, dated 13.05.2013 & 31.05.2013 as null and void and for declaration of the plaintiff's tile in respect of the schedule property and for costs. The said suit is defended by the defendants by filing a written statement. It is seen that the suit is in the argument stage. At the stage of arguments, the first defendant in the suit has filed the present application in I.A.No.14 of 2023 to recall PW1 for further cross-examination. The reasons mentioned in the affidavit is that different version has been given in the criminal complaint arising out of the very same transaction and therefore, the first defendant wants to confront PW1 with such document, which included in the charge sheet filed in the above said criminal case.

3.The trial Court considered the facts and that the suit is of the



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year 2014 and the application was filed very belatedly at the stage of arguments, dismissed the application. As against the same, this petition is filed.

4.The learned counsel for the petitioner would submit that when substantial and proper reasons are given in the affidavit for the long delay, the trial Court ought to have given one more opportunity to the 1st defendant and in the absence thereof, the correct facts cannot be brought forth before the trial Court. The said submission was opposed on behalf of the respondent stating that except to drag on the matter, there is no purpose in the matter and it is very belated stage.

5.I have considered the rival submissions made on either side and perused the records.

6.First of all a perusal of the reasons mentioned in the application for recall of PW1 for further cross-examination, specific reasons are given. The only lapse on the part of the petitioner is that the application is filed belatedly. When the facts are relevant to the issue, such delay or



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lapse can be compensated by imposing costs on the other side.

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7.The apprehension expressed by the learned counsel appearing on behalf of the respondent can be redressed by ordering specific time schedule for undertaking the entire exercise. The learned counsel for the petitioner appearing on behalf of the petitioner would submit that there will be no further interlocutory application in this matter. The same is also recorded.

8.Accordingly, this civil revision petition is allowed on the following terms.

(i) The fair and decretal order, dated 17.07.2023 made in I.A.No. 14 of 2023 in O.S.No.18 of 2014, on the file of the Sub-Court, Valliyoor, shall stand set aside and the same is allowed on condition to pay the cost of Rs.5,000/- (Rupees Five Thousand only) to the plaintiff.

(ii) The cost shall be paid on or before 12.07.2024 either to the learned counsel appearing on behalf of the plaintiff before this Court or to the learned counsel appearing before the trial Court and a memo shall be filed before the trial Court.



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(iii) After filing the memo, on the next date of hearing which is scheduled, PW1 shall be present and the defendant shall cross examine the PW1 on the very same day. It is made clear that there will be no further adjournments, for cross-examination.

(iv) It is also submitted that there will be no further interlocutory applications by the petitioner before the trial Court and the same is recorded. The trial Court shall then proceed with the suit and the parties shall argue the matter as expeditiously as possible. The suit shall be completed expeditiously, in any event, not later than 45 days from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

01.07.2024

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

1.The Subordinate Judge, Valliyoor.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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