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CRP(PD).No.1887 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.1887 of 2025

and

CMP.Nos.10886 of 2025

S.Maragatham

... Petitioner

Vs.

R.Narayanasamy

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and final order passed in IA.No.10 of 2024 in OS.No.219/2020 dated 29.01.2025 on the file of the II Additional District and Sessions Judge, Tiruppur by allowing the CRP.

For Petitioner : M/s.N.Umapathi

ORDER

Aggrieved by the refusal on the part of the II Additional District and Sessions Judge, Tiruppur to reopen the case for examining the 3 witnesses on the side of the plaintiff, the petitioner/plaintiff is before this Court.



2. The petitioner/plaintiff had filed a suit OS.No.219/2020 on the file of the aforesaid Court, for specific performance against the respondent.

3. During the cross examination, the respondent had admitted the earlier mortgage with third party and the redemption of the said mortgage. In the instant suit, the respondent had taken a stand that the suit agreement is nothing but a mortgage deed. Therefore, in order to prove his case that the earlier mortgage has been redeemed only for the purpose of the sale of the property to the plaintiff, the plaintiff has wanted to examine witnesses on his side. Therefore, he has come forward with the petition in question.

4. The respondent/defendant had filed a counter interalia contending that DW.1 had been cross examined on 19.09.2024 and the matter has been posted on two occasions for arguments i.e. on 15.10.2021 and 22.10.2024. However, without arguing the case, the petitioner had filed an application to reopen the case for examination of three witnesses. The respondent/defendant would submit that this is not the first time that such an application has been filed and further the mortgage deed is irrelevant to the issue in the suit.

5. The learned II Additional District and Sessions Judge, Tiruppur



after hearing the parties had proceeded to dismiss the application.

Challenging the same the petitioner is before this Court.

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6. Heard the counsel for the petitioner and peruse the records.

7. Paragraph 6 of the impugned order would read as follows:-

“ On perusal of records, it shows that, this Petitioner is the Plaintiff of the Suit and he filed a Suit for Refund of advanced money based on the alleged sale agreement executed by this Respondent on 01.10.2018. In this Suit, the Plaintiff's side evidence was closed on 07.11.2023 and after that. the Defendant's side also closed on 02.04.2024. Thereafter this case was posted for arguments on 08.04.2024, 10.06.2024, 09.07.2024, 30.07.2024. Thereafter on 20.08.2024 this Petitioner filed a petition to reopen this case and recall of D.W1 and after allowing this petition, this petitioner's side cross examined the D.WI on 19.09.2004 and marked two documents through DWI as Ex.A8 and Ex.A9. Thereafter this case was posted for arguments on 15.10.2024, 22.10.2024 and 05.11.2024. Then only this Petitioner



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filed this Petition on 19.11.2024 to reopen this case for examine the 3 witnesses. The above said adjudication order passed by this Court itself shows that, this Petitioner is not interested to dispose this Case. Further, as argued by this Respondent's side this suit is only for refund of advanced amount. Whereas this petitioner wants to prove the earlier Mortgage Deed and also redemption of Mortgage executed by this Respondent in favour of the 3rd party."

8. A mere perusal of the above would clearly show that the intention of the plaintiff is only to protract the proceedings. Therefore, the learned II Additional District and Sessions Judge, Tiruppur has rightly dismissed the application and I see no reason to interfere with the same.

9. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

30.04.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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1.The II Additional District and Sessions Judge, Tiruppur.



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P.T. ASHA. J.,

(shr)

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