

(2009) 02 MAD CK 0130

In the Madras High Court

Case No : C.R.P. (PD) No's. 3272 to 3274 of 2008 and M.P. No. 1 of 2008

M. Saraswathi

APPELLANT

Vs

Mrs. Irudayamary

RESPONDENT

Date of Decision : 10-02-2009

Acts Referred:

Citation : (2009) 02 MAD CK 0130

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : P. Seshadri, for the Appellant; K. Sivakumar, for the Respondent

Judgement

G. Rajasuria, J.—Animadverting upon the order dated 22.07.2008 made in I.A.Nos.225 to 227 of 2008 in O.S. No. 37 of 2007 passed by the learned Subordinate Judge, Cheyyar, these civil revision petitions are focussed.

2. Heard both sides.

3. Niggard and bereft of details, the relevant facts, which are absolutely necessary and germane for the disposal of these civil revision petitions would run thus:

The revision petitioner/plaintiff filed the suit in O.S. No. 37 of 2007 for specific performance of an agreement to sell. The defendant/respondent also entered appearance and both sides adduced evidence. When the matter was posted for argument, the revision petitioner/plaintiff filed I.A. Nos. 225 to 227 of 2008 to reopen, to recall PW1 and to receive the documents. However, the lower Court dismissed all the three applications. Being aggrieved by and dissatisfied with such order, these revisions have been filed on various grounds.

4. Learned Counsel for the revision petitioner/plaintiff would develop his argument to the effect that the plaintiff only attempted to bring before the Court the fact that in the same Court one other suit in O.S. No. 50 of 2001 is pending between the revision petitioner and the respondent herein, there was some cloud

relating to the subject matter of the suit properties involved in this case and that the lower court could have allowed those applications but, unjustifiably, dismissed all the applications.

5. Whereas the learned Counsel for the respondent/defendant would submit that nothing prevented the plaintiff to file such applications during the early stage of the case or before the commencement of the trial and as such, there is no infirmity in the order passed by the lower Court.

6. In this factual matrix, I am of the considered opinion that the revision petitioners in this case, simply wanted to bring it on record the pendency of one other suit before the same Court relating to the very same subject matter of the present suit between the revision petitioner and the respondent and in such a case, the lower Court could have very well allowed those applications. No doubt, there are some laches on the part of the revision petitioner in filing those applications. However in the interest of comprehensively deciding the lis, the lower Court could have allowed all those applications and no prejudice would have been caused to the respondent/defendant. Hence, all the three applications are allowed and the order of the lower court is set aside on payment of a total cost of Rs. 500/- (Rupees five hundred only) by the revision petitioner to the respondent within a period of one week from the date of receipt of a copy of this order.

7. Accordingly, these civil revision petitions are disposed of. No costs. Consequently, the connected miscellaneous petition is closed.