

(2014) 10 MAD CK 0201

In the Madras High Court

Case No : C.R.P. (PD) (MD) Nos. 1973 and 1974 of 2014 and M.P. (MD). No. 1 of 2014

Rani

APPELLANT

Vs

V. Thamaraiselvi

RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Citation : (2014) 10 MAD CK 0201

Hon'ble Judges : M. Duraiswamy, J

Bench : Single Bench

Judgement

M. Duraiswamy, J.—Challenging the fair and final orders passed in I.A. Nos. 89 and 90 of 2014 in O.S. No. 47 of 2008, on the file of the Principal Sub Court, Kumbakonam, the defendant has filed the above Civil Revision Petitions.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The respondent/plaintiff filed the suit O.S. No. 47 of 2008 for declaration and recovery of possession. The said suit was contested by the defendant. After the oral and documentary evidence, the suit was posted for arguments and when the suit was in the part heard stage, the plaintiff filed the present applications I.A. Nos. 89 and 90 of 2014 to re-open and to re-call PW-1 for the purpose to let in further evidence. The said applications were hotly contested by the defendant on various grounds. The Trial Court after taking into consideration the case of both parties allowed both the applications. Aggrieved over the same, the defendant has filed the above civil revision petitions.

4. Mr. H. Lakshmi Shankar, learned counsel appearing for the petitioner submitted that the present applications filed by the plaintiff after the completion of oral and documentary evidence and when the suit was in the part heard stage, was only for the purpose of dragging on the matter and therefore, the Trial Court ought to have dismissed both the applications.

5. Learned counsel appearing for the respondent submitted that PW-1 is the attester of the Will dated 03.11.2000 and that in the chief-examination itself PW-1 has stated about the Will. However, by inadvertence the document was not marked, though it was produced before the Trial Court. Further, the learned counsel for the respondent submitted that PW-1 may be recalled for the purpose of marking the said document and that the plaintiff shall not let in any further evidence apart from marking the said Will.

6. Learned counsel for the petitioner also has no objection for marking the Will dated 03.11.2000.

7. Having regard to the submissions made by the learned counsel on either side, since it is contended by the learned counsel for the respondent that PW-1 may be recalled solely for the purpose of marking the Will dated 03.11.2000 and that they shall not let in any further evidence with regard to any other aspect, I am of the considered view that the fair and final orders passed by the Trial Court in I.A. Nos. 89 and 90 of 2014 are confirmed. The plaintiff is permitted to examine PW-1 only for the purpose of marking the Will dated 03.11.2000 and it is made clear that the plaintiff shall not let in any further evidence in any other aspect in the suit. Since, the suit is in the part heard stage, the Trial Court is directed to dispose of the suit in O.S. No. 47 of 2008 within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations, the civil revision petitions are dismissed. Consequently, connected miscellaneous petition is also dismissed. There shall be no order as to costs.