



C.R.P.(MD) Nos.1535 & 1536 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) Nos.1535 & 1536 of 2023

and

C.M.P(MD) Nos.7564 & 7565 of 2023

1.Manichi

2.Pushbam

3.Karuppaiah

4.Arumugam

... Petitioners in
both C.R.Ps.

Vs.

M.Maniyan

... Respondent in
both C.R.Ps.

Civil Revision Petitions filed under Article 227 of the Constitution of India, to call for the records of the Fair and Executable orders dated 21.12.2022 passed in I.A.No.04 of 2022 in I.A.No.2 of 2020 in O.S.No.165 of 2020 and in I.A.No.05 of 2022 in O.S.No.165 of 2020 respectively, on the files of the Sub Court, Aruppukottai and set aside the same.

For Petitioners
in both C.R.Ps. : Mr.I.Suthakaran



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COMMON ORDER

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By this common order, both the Civil Revision Petitions are being disposed of.

2. These Civil Revision Petitions are preferred by the defendants against the impugned orders dated 21.12.2022 passed in I.A.No.04 of 2022 in I.A.No.2 of 2020 in O.S.No.165 of 2020 and in I.A.No.05 of 2022 in O.S.No.165 of 2020 respectively, on the files of the Sub Court, Aruppukottai.

3. According to the revision petitioners, I.A.Nos.4 & 5 of 2022 were filed by the respondent/plaintiff under Order 6 Rules 17 & 18 and Section 151 of the Code of Civil Procedure, 1908 to carry out the amendment in respect of averments made in the I.A.No.2 of 2020 and in the plaint.

4. The learned Trial Judge, after considering the affidavits filed by the respondent/plaintiff and the counter affidavit filed by the revision petitioners/defendants, allowed the said I.As. in favour of the respondent/plaintiff for carrying out the necessary amendments in I.A.No.2 of 2020 as well as in the plaint.



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5. Aggrieved by these impugned orders, the present Civil Revision Petitions are preferred by the revision petitioners/defendants stating that the amendments sought for by the respondent/plaintiff with regard to the age of the respondent/plaintiff as well the revision petitioners/defendants are without any evidence and it is only an afterthought.

6. It is submitted that the revision petitioners/defendants have taken a specific defense in their Written Statement stating that the respondent/plaintiff cannot be a member of the society, through which, he claims title to the suit schedule property, for the reason that at that point of time, the respondent/plaintiff was a minor. However, the learned Trial Judge has given a finding in favour of the respondent/plaintiff to amend the age of the parties in I.A.No.2 of 2020 as well as in the plaint without any proof to substantiate the same. The amendments sought for by the respondent/plaintiff is only an afterthought and the learned Trial Judge has simply allowed the same without any proof of age and therefore, the impugned orders are liable to be set aside.

7. Heard the learned counsel for the revision petitioners/defendants and perused the records.



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8. On going through both the impugned orders passed by the learned Trial Judge in I.A.No.04 of 2022 in I.A.No.2 of 2020 in O.S.No.165 of 2020 and in I.A.No.05 of 2022 in O.S.No.165 of 2020, it is noticed that the learned Trial Judge has observed that at the time of trial, the contention of the parties can be agitated on the basis of evidence put forth by the respective parties. The decision of the learned Trial Judge is well reasoned and does not require for any interference. Therefore, the present Civil Revision Petitions are liable to be dismissed.

9. The revision petitioners/defendants are at liberty to file their additional written statement stating all their contentions raised in these Civil Revision Petitions and also to let in evidence in this regard. Based on which, the Trial Court can frame additional issues and decide the same on merits.

10. Accordingly, both these Civil Revision Petitions are dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed.

03.07.2023

NCC :Yes/No
Internet: Yes/No
Index: Yes/ No
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The Sub Court,
Aruppukottai.



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K.GOVINDARAJAN THILAKAVADI, J.

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