

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2015

Coram

The Honourable Mr.Justice G.CHOCKALINGAM

C.R.P.(PD) No.1145 of 2013

and

M.P.No.1 of 2013

1.Shanthi
2.Govindammal
3.Gomathi

... Petitioners 1 to 3/
Petitioners 1 to 3/
Plaintiffs

Vs.

1.Shantha
2.Minor Naveen
3.Minor Charumathi
(Minor respondents 2 and 3 represented
by mother/guardian Shantha the first
respondent)
4.Jayaprakash
5.Suresh
6.Bakthavatchalam

... Respondents 1 to 6/
Respondents 1 to 6/
Defendants 1 to 6

Civil Revision Petition has been filed Under Section 227 of the Constitution of India to set aside the fair and decreetal orders passed in I.A.No.154 of 2012 in O.S.No.21 of 2008 dated 08.01.2013 on the file of the II Additional Sub Court, Cuddalore.

For Petitioners :Mr.P.Mani
For Respondents :Mrs.R.Meenal
for R1 to R3

O R D E R

This Civil Revision Petition has been filed by the petitioners/plaintiff as against the fair and decreetal orders passed in I.A.No.154 of 2012 in O.S.No.21 of 2008 dated 08.01.2013 on the file of the II Additional Sub Court, Cuddalore to reopen the case to let in 4th and 6th defendants side evidence.

2. In this case, it is admitted by both the parties that the suit in O.S.No.105 of 2004 filed by the respondents 1 to 3 herein, who are the defendants in O.S.No.21 of 2008 were jointly tried and in both the cases common evidence, both oral and documentary evidence were adduced in O.S.No.105 of 2004. It is further submitted that the defendants 4 to 6 in O.S.No.105 of 2004 and the plaintiffs in O.S.No.21 of 2008 have filed this petition to reopen the case to let in 4th and 6th defendants side evidence. The Trial Court has dismissed the petition only on the ground that the common evidence was recorded in the suit in O.S.No.105 of 2004 and not in O.S.No.21 of 2008 and hence the petition is not maintainable.

3. The learned counsel appearing for the first respondent submitted that the petition has been filed belatedly. At the time of her argument, the learned counsel appearing for the first respondent submitted that the civil revision petition may be allowed on heavy costs and she has also made an endorsement to that effect.

4. In view of the submission and endorsement made by the learned counsel appearing for the first respondent and also considering the facts and circumstances of the case, the civil revision petition is allowed and the order passed by the learned II Additional Sub Judge, Cuddalore dated 08.01.2013 in I.A.No.154 of 2012 in O.S.No.21 of 2008 is set aside, on condition that the petitioners pay a sum of Rs.1000/- (Rupees one thousand only) to the learned counsel appearing for the first respondent on or before 08.01.2016, failing which the revision petition shall stand dismissed without reference to the Court. On payment, the Trial Court is directed to reopen the evidence so as to let in the evidence on behalf of 4th and 6th defendants and proceed in accordance with law. Consequently, connected M.P. is closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

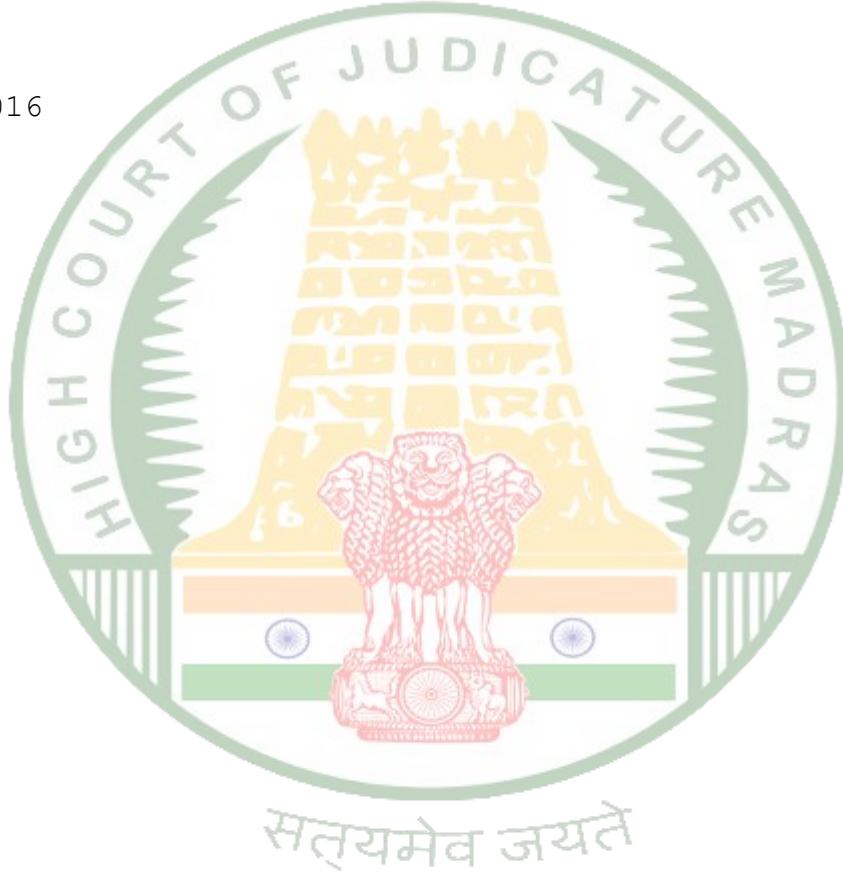
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To
The II Additional Subordinate Judge,
Cuddalore.

+1 cc to Mr.P.Mani Advocate sr.67669
+1 cc to MS.R.Meenal Advocate sr.67815

CRP(PD)No.1145 of 2013

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