



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2015

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CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

CRP(MD).Nos.1674 and 1675 of 2013 and
M.P.(MD).No.1 of 2013 in CRP(MD).No.1674 of 2013

1. K. Uthirakumar
 2. Deivanai Ammal
 3. Kumaresan
(unsound mind of 3rd petitioner through his
mother of second petitioner)
 4. Pandarampaul
- : Petitioners in both CRPs/
Respondents 7,8,9 & 10/ Defendants 7,8,9 & 10.

Vs.

1. Sivasanakarmoorthy : 1st respondent/Petitioner/ Plaintiff
2. C. Rajakumari
3. B. Santhakumari
4. T. Jeyakumari
5. Sarojadevi
6. Kanika Dhevi
7. M. Rajeswari : Respondents 2 to 7/Respondents 1 to 6
/Respondents 1 to 6 in both CRPs.

Prayer: These Civil Revision Petitions are filed under Article 227 of Constitution of India against the fair and decreetal order made in I.A.Nos.166 and 167 of 2013 respectively in O.S.No.7 of 2012 dated 19.04.2013 on the file of the District Munsif Court, Thiruchendur.

For Petitioners : Mr. S. Sivathilakar
For 1st Respondent : Mr. F.X. Eugene
For Respondents 3 to 7 : Mr. T. Selvam

COMMON ORDER

These revisions are directed against the order allowing the applications under Order 18 Rule 17 of C.P.C to reopen and recall of the PW1 for producing additional documents.



2. Heard the learned counsel appearing for the petitioner and the respondents.

3. The suit is filed for partition and after trial and arguments are over, it was posted for judgement, at this stage, the first respondent / plaintiff has come up with said Interlocutory Applications to produce some additional documents viz., photographs and CDs of the marriage of the daughter. He filed an applications to reopen and recall PW.1 to mark those documents. The said applications were resisted by the revision petitioners / defendants contending that even on earlier occasion two Interlocutory Applications in I.A.Nos.819 and 820 of 2012 were filed to recall PW.1 and mark some documents, which were allowed.

4. Now, this is the second set of applications filed after the arguments were heard and there is no merit in the case and it has to be dismissed. But, after hearing both sides, the trial Court allowed the applications. Aggrieved by the same, revision petitioners / defendants have come up with the above said revisions.

5. No doubt, order 18 Rule 17 of CPC is to enable the Court to give proper adjudication, in the event of the court feeling that the case may be reopened for elucidating any ambiguity. It is also open to the parties to take out an application under Order 18 Rule 17 of CPC. However, such exercise has to be done sparingly. The said applications cannot be allowed for the sake of convenience, as has been done in this case.

6. It is the suit for partition and the parties are close relatives and the evidence is over and posted for judgment. At this stage, the first respondent / plaintiff has come up with these applications. The learned District Munsif, Tiruchendur has held that the applications cannot be dismissed mainly on the ground that they are filed for the second time. It is not stated by the trial Court that there is an ambiguity in the mind of the Court to adjudicate the main issue or the reopening of the case is absolutely necessary.

7. When the arguments are heard and posted for judgement, at the fag end of the proceedings, the applications are filed by the plaintiff. Such applications cannot be allowed to reopen and recall to mark only documents, which are apparently secondary evidence. From the conduct of the first respondent / plaintiff, it is evident that there is no bonafide in filing such



8. In view of the above findings, the order of the District Munsif, Thiruchendur passed in I.A.Nos.166 and 167 of 2013 are set aside as reopening and recall of the PW.1 is unwarranted, after the judgment was reserved.

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9. Accordingly, the Civil Revision Petitions are allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The District Munsif, Thiruchendur.

+2cc to Mr.S.Sivathilakar, Advocate Sr.No.5076 & 5077

trp

AA/25.02.2015/3p- 4c/

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