

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.78 and 79 of 2016

Sothimani @ Jothimani : Petitioner

versus

1.D.Sumathy @ Soudamy
2.Shiyamala : Respondents

PRAYER: Revision filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.4.2015, in I.A.Nos.285 and 376 of 2015 in O.S.No.122 of 2012 on the file of the Principal District Judge, Puducherry.

For petitioner :: Ms.G.Sumithra

For respondents :: Mr.S.Tiritharan

COMMON ORDER

The first respondent filed a suit for declaration and consequential reliefs against the petitioner. In the said suit, the first respondent filed an application in I.A.No.285 of 2015 to substitute her son Mr.Krishnamurthi, as the plaintiff on account of the settlement deed executed by her in his favour. The application was allowed by the Trial Court notwithstanding the objection raised by the petitioner. The said order is under challenge in

C.R.P.(PD) No.78 of 2016.

2. The first respondent filed an application in I.A.No.376 of 2015 to receive documents. The application was allowed by the Trial Court on payment of costs. The said order is challenged in C.R.P. PD No.79 of 2016.

3. The application in I.A.No.285 of 2015 though filed by the first respondent, the affidavit was sworn to only by her son, who is sought to be impleaded as plaintiff in substitution of the first respondent. There is no question of substituting son in the place of the original plaintiff on account of settlement deed executed during the currency of the suit. This aspect was not considered by the learned Trial Judge. I am therefore of the view that the impugned order insofar as it permits the son of the first respondent to be substituted as plaintiff is liable to be set aside.

4. The first respondent filed I.A.No.776 of 2015 to receive certain documents. The learned Trial Judge simply allowed the application and received the documents. That does not mean that the Court has accepted the documents. Question of admissibility and evidentiary value of the documents produced by the first respondent in I.A.No.376 of 2015 would be considered by the Trial Court during the course of trial. In short, it is for

the Trial Court to decide as to whether those documents are admissible in evidence and its evidentiary value. There is no question of setting aside the order passed by the Trial Court in I.A.No.376 of 2015 on account of the grounds taken in this civil revision petition.

5. The civil revision petition in C.R.P.(PD) No.78 of 2016 is allowed to the extent indicated above. The civil revision petition in C.R.P.(PD) No.79 of 2016 is disposed of with the above direction. No costs. Consequently, C.M.P.No.390 of 2016 is closed.

24.11.2016

Index:Yes/no
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To
The Principal District Judge, Puducherry.

K.K.SASIDHARAN, J.

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