



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

CRP (MD).No.1 of 2009 and
M.P(MD).No. 1 of 2009

1. Sundari
2. Ramakrishnan
3. Selvan
4. James

: Petitioners / Defendants /
Petitioners

Vs.

1. Muthian
2. Jeya @ Jearsonwels (died)
3. Stalin Kumar
4. Thankappan

(R1, R3 and R4 are recorded as LR's of the
deceased R2 as per the memo dated 29.09.2016) : Respondents /
plaintiffs 1 to 3 & 5/
Respondents

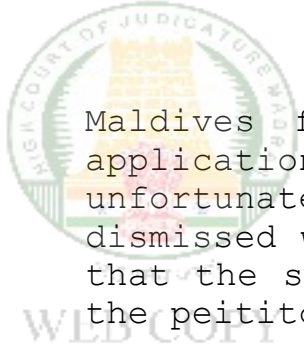
Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 22.07.2008 made by the learned Principal District Munsif, Kuzhithurai in I.A.No.64 of 2008 in O.S.No.41 of 2008.

For Petitioner : Mr.K.N.Thampi
For respondent : Mr.K.Sree Kumaran Nair

ORDER

The Civil Revision Petition has been filed against the fair and decreetal order dated 22.07.2008 made by the learned Principal District Munsif, Kuzhithurai in I.A.No.64 of 2008 in O.S.No.41 of 2008.

2. According to the revision petitioners, the respondents herein have filed a suit in O.S.No. 41 of 2008 for a decree of demarcation and permanent injunction of the suit property. In the aforesaid suit, the revision petitioners have filed I.A.No.64 of 2008 for directing the plaintiffs 2 and 3 / respondents 2 and 3 to appear before the Court to verify the signatures in the plaint and to dismiss the suit on the ground that their signatures had been forged in the Vakalat and plaint. According to the petitioners, the third respondent / third plaintiff left the suit locality about 2 ½ years ago and his whereabouts is not known. Insofar as the third respondent / third plaintiff is concerned, he was working in



Maldives for the last more than 1 ½ years. Therefore, the application was filed for verification of the signatures but unfortunately, the said Interlocutory Application was simply dismissed without considering the case of the petitioners stating that the suit itself is listed for trial. In such circumstances, the petitioners have filed the present Civil Revision Petition.

3. Per contra, the learned counsel for the respondents submitted that it is an admitted fact that second respondent / plaintiff who is the party in suit proceedings died leaving behind the respondents 1, 3 and 4 as his legal heirs and the aforesaid legal heirs are already on record and to that extent a memo has been filed by the revision petitioners. The learned counsel for the third respondent failry submitted that third respondent / third plaintiff is ready to appear before the Courts below subject to the convenient date given by the Court below.

4. Recording the said submission made by the learned counsel for the respondents, the order passed in I.A.No.64 of 2008 dated 22.07.2008 is hereby set aside and remitted back to the trial Court and the trial Court is directed to consider the appearance of the third respondent/third plaintiff in the light of the submission made by the counsel for the third respondent / plaintiff.

5. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Kuzhithurai.

Copy To:

The Record Keeper,
V.R Section,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.N.THAMPI, Advocate, SR No. 67400

+1 CC to M/s.K.SREE KUMARAN NAIR, Advocate, SR No. 67661

TRP

PSM/MR/21.02.2017/2P/5C