



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 23.06.2016

CORAM

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

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C.R.P (MD) No.1691 of 2015 (PD)

and

M.P. (MD) .No.1 of 2015

- 1.R.Selvaraj
- 2.C.Murugesan
- 3.P.Duraipandi
- 4.K.Krishnan
- 5.G.Ganesan

.. Petitioners

vs.

- 1.Tiruppuvanam Nadar Uravinmurai
Kalvi Maruthuvamanai Nala
Arakkattalai Trust,
Rep by its Secretary, R.Jayakumar
Tiruppuvanam-630 611.

- 2.Thiruppuvanam Nadar Uravinmurai
Rep by its Present President, R.Vadivel
Tiruppuvanam-630 611.

- 3.Thiruppuvanam Nadar Uravinmurai
Rep by its Present Secretary, S.Murugesan,
Thiruppuvanam-630 611. .. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the order dated 08.07.2015 passed in I.A.No.66 of 2015 in O.S.NO.48 of 2013 on the file of the Additional District Munsif, Manamadurai by allowing this civil revision petition.

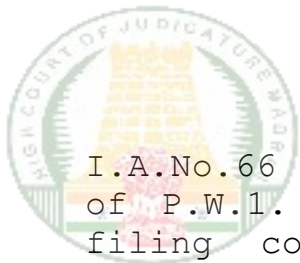
For Petitioners : Mr.S.Subbiah

For R1 : Mr.A.P.Athithan

ORDER

This revision is directed against the order dated 08.07.2015 passed in I.A.No.66 of 2015 in O.S.No.48 of 2013, by the Additional District Munsif, Manamadurai.

2.The petitioners are the defendants 1 to 5 in O.S.No.48 of 2013, which is filed by the first respondent for permanent injunction. The defendants are contesting the suit by filing their written statement. After P.W.1's cross-examination by the defendants 1 to 5, when it was posted for cross-examination by the defendants 6 and 7, the petitioners filed an application in



I.A.No.66 of 2015 seeking permission to further cross-examination of P.W.1. That application was resisted by the respondent by filing counter. The learned District Munsif, dismissed the application stating that it would amount to fill-up lacuna.

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3.Heard Mr.S.Subbiah, learned counsel appearing for the petitioners and Mr.A.P.Athithan, learned counsel appearing for the respondents and perused the materials available on record.

4.The learned counsel appearing for the petitioners would submit that the evidence of P.W.1 is not yet over and therefore, at this stage to file an application under Order 18 Rule 17 and Section 151 of the Code of Civil Procedure, does not arise in this case. However, the learned District Munsif relying upon the judgment passed under Order 18 Rule 17 and Section 151 of the Code of Civil Procedure, dismissed the application. It is further submitted that the defendants want to further cross-examination to prove their case and if an opportunity is not given, it will cause great prejudice to them.

5.Per contra, the learned counsel for the first respondent would submit that the petitioners have already cross-examined P.W1 extensively for 3 days and when the suit was posted for cross-examination for other defendants, this application was filed, without assigning any reasons and therefore, the learned Judge rightly dismissed the application, which does not warrant interference by this Court.

6.It is not in dispute that the evidence of P.W.1 is not yet over and still he is in box of cross-examination by the defendants 6 and 7. As rightly contended by the learned counsel for the petitioner, the judgment relied upon by the learned District Munsif, does not apply to the facts of this case. It is specifically stated that they want to put some more questions to P.W.1.

7.In such view of the matter, this Court is inclined to set aside the order passed in I.A.No.66 of 2015 in O.S.No.48 of 2013, to given an opportunity to the petitioners to cross-examine P.W.11. Accordingly, the civil revision petition is allowed. The petitioners are permitted to cross-examine P.W.1 for only one day and thereafter, the cross-examination can be done by the learned counsel for defendants 6 and 7. No costs. Consequently, the connected M.P is also closed.

Sd/-

Assistant Registrar(CS-I)



To
The Additional District Munsif,
Manamadurai.

+1cc to Mr.S.Subbiah, Advocate Sr.No.32854
+1cc to Mr.T.R.Subramanian, Advocate Sr.No.32383
ns
AA/AAL-MPA/06.07.2016/3p-4c

C.R.P (MD) No.1691 of 2015 (PD)
and
M.P. (MD) .No.1 of 2015
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