



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2016

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (MD) No.1354 of 2016

and

C.M.P. (MD) No.6480 of 2016

1.Jayakar
2.Chellammal
3.Sudarraj
4.Saleema
5.Shaanu

.. Petitioners/1,2,4,6 & 7 petitioners/
1,2,4,6 & 7 defendants

Vs.

1.Gnanammal
2.Mariya Pushpam
3.Nadarajan
4.Vijaya
5.Vijayakumar
6.Viju

.. 1 to 6 respondents/respondents/
plaintiffs

7.Mohan
8.Lizzy

..7th & 8th respondents/3rd & 5th petitioners/
3rd & 5th defendants

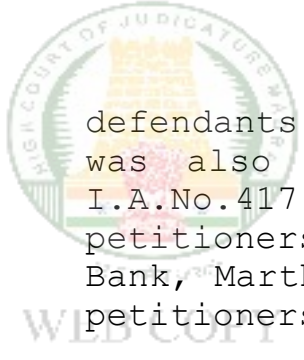
PRAYER: Petition is filed under Article 227 of Constitution of India, to allow this Civil Revision Petition against the fair and decreetal order passed in I.A.No.417 of 2014 in O.S.No.123 of 2009, dated 28.04.2016 on the file of the Sub-Court, Kuzhithurai.

For Petitioner : Mr.S.Meenakshi Sundaram

O R D E R

This Civil Revision Petition is filed against the order passed in I.A.No.417 of 2014 in O.S.No.123 of 2009 pending before the Sub-Court, Kuzhithurai.

2. The respondent Nos.1 to 6 herein filed a suit in O.S.No.123 of 2009 for realisation of amount, for realisation of value of gold ornaments and for realisation of sale consideration. In the aforesaid suit, the evidence of plaintiffs as well as the



defendants was concluded and the arguments of the plaintiffs side was also over. At that stage, the petitioners herein filed I.A.No.417 of 2014 to re-open the suit on the ground that the petitioners have to examine the Branch Manager, Indian Overseas Bank, Marthandam. The said application was dismissed. Hence, the petitioners have filed the present Civil Revision Petition.

3. Heard the learned counsel for the petitioners and perused the materials place on record.

4. The respondent Nos.1 to 6 herein filed a suit in O.S.No.123 of 2009 on the file of the Sub-Court, Kuzhithurai, for realisation of money as well as the value of gold ornaments and for sale consideration. The aforesaid suit was posted for arguments on 16.07.2014 on the plaintiffs' side. Thereafter, the case was posted for defendants' side argument on 18.07.2014, 21.07.2014, 23.07.2014. Since the defendant was not ready for argument, the case was adjourned on 25.07.2014 as no further adjournment. On that day also, the defendant's counsel was not ready to argue the case. So the case was again adjourned to 31.07.2014. On that day, the defendants filed an application to examine the Branch Manager, Indian Overseas Bank, Marthandam.

5. In the counter statement filed by the respondents, it was specifically averred that without producing any details about the gold loan, the petitioner has filed this application at the argument stage and the same is not maintainable. If the petitioners/defendants obtained any gold loan from Indian Overseas Bank, Marthandam, they might have possessed the receipts for the same. Therefore, the application filed by the petitioners at the belated stage is not maintainable.

6. Perusal of the said counter statement filed by the respondents herein clearly shows that the petitioners have not chosen to take steps to at the earlier stage and they have filed the said application belatedly and that too, at the stage of arguments of the plaintiffs was concluded. Therefore, the trial Court has rightly dismissed the said application. The petitioners have not given reasoning for re-opening of the case for the purpose of examining the Manager, Indian Overseas Bank, Marthandam.

7. Therefore, in the light of the above facts and circumstances, I am not inclined to interfere with the order

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passed by the trial Court. Hence, this Civil Revision Petition fails and accordingly, the same is dismissed. No Costs. Consequently, connected Miscellaneous Petition is also closed.

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Sd/
Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar.

To
The Subordinate Judge,
Kuzhithurai.

C.R.P. (MD) No. 1354 of 2016
20.10.2016

pm
AM/DB/10.11.2016/3P/2C