



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.12.2016**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)Nos.2505 & 2506 of 2016 (PD)
and
C.M.P(MD)No.11820 of 2016

1.Vadamalai
2.Selvaraj
3.Sukkiran
4.Arumugham
5.Lakshmi
6.Ramayee

.. Petitioners/Petitioners/Defendants
in both C.R.Ps.,

Vs.

1.Murugan
2.Saranya
3.Minor Rengasamy
S/o.Murugan
(Represented by next friend
and Natural Guardian of
the first respondent)

.. Respondents/Respondents/Plaintiffs
in both C.R.Ps.

PRAYER in both C.R.Ps.: Civil Revision Petitions are filed, under Article 227 of the Constitution of India, to set aside the Fair and Decretal order, dated 19.09.2016 passed in I.A.No.290 and 291 of 2016 in O.S.No.40 of 2007 by the Sub Judge, Kulithalai.

For Petitioners : Mr.K.Balasubramani

ORDER

These Civil Revision Petitions have been filed to set aside the Fair and Decretal order, dated 19.09.2016 passed in I.A.No.290 and 291 of 2016 in O.S.No.40 of 2007 by the Sub Judge, Kulithalai.

2.The issue involved in both the CRPs are interlinked and hence, both CRPs are disposed of by common order.

3.In both the Civil Revision Petitions, the petitioners are the defendants 1 to 6. The respondents are the plaintiffs. The respondents filed a suit for partition. After contest, the suit was posted for filing written argument and for pronouncement of Judgment. At that stage, the petitioners filed I.A.No.290 of 2016 to re-open and I.A.No.291 of 2016 for filing additional written statement. The petitioners stated that while giving instructions to



their Advocate to prepare written argument, they came to know that certain important facts as mentioned in the affidavit filed in support of the petition were not pleaded in the written statement. Those facts are necessary for proper adjudication of the suit.

4.The respondents filed counter affidavit and opposed the same. The respondents submitted that the petitioners filed petition to re-open and for filing additional written statement only to drag-on the proceedings. Both the respondents as well as the petitioners have let in oral and documentary evidence and suit is posted for filing written argument and for pronouncing the judgment. Both the applications are filed at a belated stage and is devoid of merits and prayed for dismissal of the Civil Revision Petition.

5.The learned Judge considered all the materials on record and took note of the fact that the reason for which the petitioner wants to file additional written statement to deny the facts stated in the written statement and the fact that the suit is pending from the year 2007 and it is posted for pronouncing the judgment. The petitioners have filed the above two petitions only to drag-on the proceedings. For the above reason, the learned Judge, dismissed both I.As., filed to re-open and to file additional written statement. Against the said order of dismissal, the petitioners have come out with the present Civil Revision Petitions.

6.The learned counsel for the petitioners submitted that the learned Judge failed to appreciate the facts in a proper perspective and has not exercised his power conferred on him in a proper manner. The learned Judge ought to have seen that unless the petitioners are allow to file Additional written statement, they will be put to irreparable loss and hardship. The learned Sub Judge ought to have allowed the applications to avoid multiplicity of proceedings and prayed for allowing the Civil Revision Petitions.

7.I have heard the learned counsel appearing for the petitioners and also perused the entire materials on record.

8.It is seen from the records that the petitioners have filed two petitions in I.A.No.290 and 291 of 2016 to re-open and to file additional written statement after conclusion of trial and at the time when the suit was posted for filing written arguments and for pronouncing judgment. The learned Sub Judge considered the averments in the affidavit and counter affidavit and also took note of the fact that the suit is of the year 2007 and evidence of both sides have been let in and the evidence was closed and suit is posted for filing written argument and for pronouncing judgment and dismissed the petitions.

9.The learned Sub Judge exercised his power properly and there is no illegality or irregularity in the said order warranting interference by this Court.



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10. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Sub Judge,
Kulithalai.

2. The Record Keeper,
Vernacular Section
Madurai Bnech of Madras High Court,
Madurai.

+1 cc to Mr.K.Balasubramani, Advocate, SR.NO.79946

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AM

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