

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.903, 928 & 929 of 2017 &
CMP No.4428 of 2017 in CRP (PD)No.903 of 2017

1.Pitchakaran
2.Andiappan

... Petitioners in all CRPs

v.

1.S.Mahalingam
2.Ramalingam
3.Chinnappan
4.Rajamani

... Respondents in all CRPs

Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal orders dated 06.02.2017 made in I.A.Nos.23, 24 and 25 of 2017 in O.S.No.278 of 2011 on the file of District Munsif Court, Sankarapuram.

For Petitioner : Mr.P.Valliappan

For Respondents : Mr.Balamanikandan
(Caveator for R1)

COMMON ORDER

Aggrieved over the fair and final orders passed in I.A.Nos.23, 24 and 25 of 2017 in O.S.No.278 of 2011 on the file of District Munsif Court, Sankarapuram, the defendants 1 and 2 have filed the above Civil Revision Petitions.

2. The plaintiff filed the suit in O.S.No. 278 of 2011 for declaration and injunction. The defendants filed their written statement and are contesting the suit.

3. When the suit was taken up for trial and after the closure of the oral evidence, the defendants 1 and 2 have filed the applications in I.A.Nos.23, 24 and 25 of 2017 to mark the sale deed dated 29.08.1923, to reopen the suit for further examination of D.W.1 and to recall D.W.1 for further examination.

4. In the affidavit filed in support of the applications, the defendants

1 and 2 have stated that the sale deed dated 29.08.1923 is vital for the case and therefore, they may be permitted to mark the said document as additional document.

5. Though the plaintiff has not filed his counter, the Trial Court, taking into consideration the submissions made by the learned counsel for the plaintiff, dismissed the applications finding that the applications have been filed only to drag on the proceedings.

6. Mr.P.Valliappan, learned counsel appearing for the petitioners submitted that since the sale deed dated 29.08.1923 is vital for proper adjudication of the matter, the defendants 1 and 2 may be permitted to mark the said document as additional document through D.W.1. Further, the learned counsel submitted that D.W.1 can be recalled only for the purpose of marking this document and that no other questions will be put to D.W.1 with regard to other aspects. The learned counsel also submitted that D.W.1 is willing to appear before the Trial Court on 20.03.2017 for further examination. The learned counsel submitted that the suit is posted for argument on 29.03.2017.

7. Since the suit is posted on 29.03.2017, I direct the parties to file a petition for advancing the hearing to 20.03.2017 and the Trial Court is directed to advance the hearing to **20.03.2017** and take up the matter for further examination of D.W.1.

8. Mr.G.Balamanikandan, learned counsel appearing for the first respondent-plaintiff also submitted that the first respondent-plaintiff will complete the cross examination of D.W.1 on the same day.

9. Having regard to the submissions made by the learned counsel on either side, the fair and decreetal orders passed in I.A.Nos.23, 24 and 25 of 2017 are set aside and the said applications are allowed. D.W.1 shall appear before the trial Court on **20.03.2017** for further examination and for marking the sale deed dated 29.08.1923. Since the plaintiff also agreed to complete the cross examination on the same day, the Trial Court shall close the oral evidence and hear the argument of both the learned counsel and decide the suit on merits and in accordance with law, on or before **28.04.2017**.

With these observations the Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2017

Index : Yes/No

Note : Issue copy of the order by 16.03.2017

Rj

To

The District Munsif Court,
Sankarapuram.

M. DURAISWAMY,J.,

Rj

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