

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos. 3084 to 3086 of 2013 and
M.P.Nos.1 to 1 of 2013

Govindammal

...Petitioner in all CRPs.

Vs

1.Ayyasamy (exonerated)
2.Banu @ Banumathi (exonerated)
3.Dhanraj Chettiar (exonerated)
4.Subbulakshmi
5.P.Moorthi @ Shanmugasundaramurthi
6.P.Thangavel

...Respondents in all CRPs.

Prayer:- Civil Revision Petitions filed Under Article 227 of the Constitution of India against the fair and decretal order dated 30.04.2013 passed in I.A.Nos.296, 297 and 298 of 2013 in O.S.No.28 of 2005 by the learned District Munsif, Tiruppur.

For Petitioner : Mr.S.S.Swaminathan

COMMON ORDER

The petitioner filed a suit for partition. Since there was a dispute with regard to the date of death of the petitioner's mother, she produced her mother's Death Certificate. After the completion of cross examination of D.W.1, an application was filed to receive the document, along with two other applications, one to re-open the evidence and another to recall P.W.2. The

trial Court dismissed all the applications by placing reliance on the evidence given by the petitioner with regard to the death of her mother. The common order dated 30 April 2013 is under challenge in these civil revision petitions.

2. The learned counsel for the petitioner contended that there is a dispute with regard to the actual date of death of the petitioner's mother and that was the reason for production of the document. Since the document was not available with the petitioner while giving evidence, she produced the same after her examination and before cross examination of D.W.1. Since D.W.1 disputed the said document, the petitioner was constrained to file the application to re-open the evidence, recall P.W.2 and to mark the document. According to the learned counsel, the application was rejected by the learned Judge notwithstanding the fact that it is a material document and the delay was properly accounted for.

3. None appears on behalf of the respondents.

4. The suit in question was filed by the petitioner for partition. The documents available on record indicate that there was a dispute with regard to the actual date of death of the petitioner's mother. It was only to prove the factum of death and the date of death, the petitioner filed the applications. The fact that the petitioner was not sure with regard to the date of death of her mother would not deny her an opportunity to produce the

certificate issued by the competent authority. Since this aspect was not considered by the learned trial Judge, the common order is liable to be set aside.

5. In the result, the common order dated 30 April 2013 is set aside. The applications are allowed.

6. The civil revision petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

14.06.2017

dna/gms

To

The District Munsif Court
Tirupur.

K.K.SASIDHARAN,J.

dna/gms

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