



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.11.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD) Nos.1408 to 1410 of 2017

and

C.M.P. (MD) No.7078 of 2017

1.N.Chandrasekaran
2.R.Devaki
3.V.Lakshmi Praba
4.S.Revathi
5.R.Malathy

.. Petitioners/Petitioners/
Plaintiffs
in all petitions

vs.

1.D.Ganesan
2.S.Meerabai
3.N.Visalatha
4.S.Giridaran
5.S.Gowthaman
6.T.Anusiya
7.T.Raghavan
8.S.Salaja
9.S.Muralitharan
10.Vanaja

... Respondents/Respondents/Defendants
in all petitions

PRAYER: Petitions filed under Article 227 of the Constitution of India, against the petition and order dated 25.07.2017 passed in I.A.Nos.102, 103 and 104 of 2017 in O.S.No.23 of 2016, on the file of I Additional District Court, Tuticorin.

For Petitioner
in all petitions : Mr.D.Nallathambi
For Respondents
in all petitions : Mr.R.J.Karthick
for R.1
: Mr.B.N.Rajamohamed
for R.7
: Mr.N.Dilip Kumar
for R.5 and R.9
: Mr.P.Prabhu
for R.6, R.8 and R.10
: No Appearance
for R.2 to R.4

**COMMON ORDER**

All the above Civil Revision Petitions have been filed by the plaintiffs against the petition and order dated 25.07.2017 passed in I.A.Nos.102, 103 and 104 of 2017 in O.S.No.23 of 2016, on the file of I Additional District Court, Tuticorin.

2. The petitioners/plaintiffs have filed a suit in O.S.No.23 of 2016 on the file of I Additional District Court, Thoothukudi for partition. During the pendency of the suit, the petitioners/plaintiffs have filed three interlocutory applications in I.A.Nos.102, 103 and 104 of 2017 to re-open, to recall and to produce the rebuttal evidence for the will. The trial Court dismissed all the applications. Against which, the present Civil Revision Petitions have been filed.

3. The learned Counsel for the petitioners submitted that without hearing both sides, the trial Court had simply dismissed the applications on the ground that there is no extension of time from this Court to complete the trial, since there was a direction by this Court in C.R.P.(MD)No.58 of 2017 to complete the trail in O.S.No.23 of 2016 before 30-June-2017. The learned Counsel for the petitioners further submitted that now this Court has also granted further extension of time for disposal of the suit.

4. Heard the learned Counsel for the petitioners and the learned Counsel for the respondents and perused the materials available on record.

5. On a perusal of the order passed by the trial Court, it is seen that the trial Court, without assigning any reason, dismissed the applications, by stating that there was a direction by this Court in C.R.P.(MD)No.58 of 2017 to complete the trail in O.S.No.23 of 2016 before 30-June-2017. The only reason assigned



by the learned Judge is that since there is a direction by this Court to complete the trial on or before 30.06.2017, this I.A. Was dismissed and the above reason cannot be cited for dismissing the application, which warrants interference of this Court. Now the time for disposal was extended by this Court. The order of the learned Judge cannot be sustained.

6. In the result, all the Civil Revision Petitions are allowed and the orders made in I.A.Nos.102, 103 and 104 of 2017 in O.S.No.23 of 2016, on the file of I Additional District Court, Tuticorin are set aside and the matter is remanded back to the trial Court for fresh consideration and pass orders on merits and in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (RECORD)
/True Copy/

Sub Assistant Registrar

To

The I Additional District Court, Tuticorin.

Copy to : The Section Officer, V.R Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.D.NALLATHAMBI Advocate in SR. No. 87352
+1cc to Mr.R.J.KARTHICK Advocate in SR. No. 87377
+1cc to Mr.N.DILIP KUMAR Advocate in SR. No. 87408
SSL
JS/SV.MMS/SAR.1/27.11.2017/3P-6C

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