



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) .No.1536 of 2017 (PD) &
C.M.P. (MD) .No.8429 of 2017

Vasanthi

... Petitioner/Petitioner/3rd party

Vs.

Pandi (died)

1.Mookandi
2.Ganapathy
3.Subbiah
4.Selvaganapathy @ Selvaganapathy Raja
5.P.Mariammal
6.P.Esakkiammal
7.Muppidathi
8.P.Rathinam

... Respondents/Respondents

Prayer: Petition is filed under Section 115 of Civil Procedure Code against the fair and decreetal order, dated 25.07.2017 passed in E.A.No.44 of 2017 in E.A.110 of 2011 in E.A.No.76 of 2011 in E.P.No.37 of 2010 in O.S.No.56 of 2010 on the file of Sub Court, Ambasamuthram.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.R.Aravindan for R3
No appearance for R1, R2, R4 to R8

ORDER

The respondents 1 to 4 are the plaintiffs. The fifth respondent is the defendant. The respondents 1 to 4 filed a suit in O.S.No.56 of 2010, before the Sub Court, Ambasamuthram, for specific performance against the fifth respondent on the basis of the agreement dated 18.10.2007. The suit was decreed exparte. The petitioner is the third party to the suit.

2. While the matter stood thus, the petitioner herein, who is the third party, filed E.A.No.44 of 2017 to re-open the main petition for the purpose of examining the petitioner as a witness



on her side. The respondents objected the same. The Trial Court after hearing both sides, dismissed the said petition. Aggrieved against the said order, the petitioner/3rd party filed the present civil revision petition.

3. The learned counsel for the petitioner would submit that the application has been filed for the purpose of letting evidence stating that the signature in the petition is only her signature and to produce the flight ticket, on the date which he had come here from Mumbai. Only for that limited purpose she wanted to re-open the matter and to let in evidence in this regard. The learned counsel relied on the judgment of this Court reported in **1998 MLJ 476 (Muthuvel Nainar v. D.A.Hatheeja Beebi and Ors.)** in support of his case.

4. The objection of the respondent is that since the petitioner has already filed a petition before the lower Court for reopening the evidence, the impugned petition has become infructuous. The allegation made by the learned counsel for the respondent is that the petitioner is dragging on the matter by filing such application.

5. The learned counsel for the petitioner would submit that the petitioner is ready to get along with the case on the day to day basis.

6. The learned counsel for the respondent would submit that assuming for the moment that this Court is inclined to re-open the matter, then the respondents right to cross-examine the petitioner would not be curtailed.

7. Heard the learned counsel on either side.

8. Considering the facts and circumstances of the case and in the interest of justice, the impugned order is set aside and the petitioner is permitted to let in evidence only for the limited purpose with regard to the signature in the petition and vakalat and to mark the flight ticket. It is needless to state that that respondents are at liberty to cross-examine the petitioner.

9. In the result, the civil revision petition is allowed for the limited purpose indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/



To

The Subordinate Judge,
Ambasamudram.

+ 1 cc TO Mr.G.Prabhu Rajadurai , Advocate in SR No. 82577
+ 1 cc TO Mr.R.Aravindan , Advocate in SR No. 82572

jikr

AE/SKN RSK/SAR2/31.10.2017/3P/4C

**Order made in
C.R.P. (MD) .No.1536 of 2017(PD) &
C.M.P. (MD) .No.8429 of 2017
11.10.2017**