



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

CORAM:

THE HONOURABLE Mrs.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) .No.188 of 2017

and

C.M.P. (MD) .No.854 of 2017

A.Abdul Kareem ... Petitioner/Petitioner/1st Defendant

Vs.

1. Sheik Parveen ... 1st Respondent/Respondent/Plaintiff

2. Tahsildar,
Thirumangalam Taluk,
Madurai District.

3. The Executive Engineer,
Tamil Nadu Electricity Board,
Usilampatti Road,
Thirumangalam,
Madurai.

... Respondents 2&3/Defendants 2&3

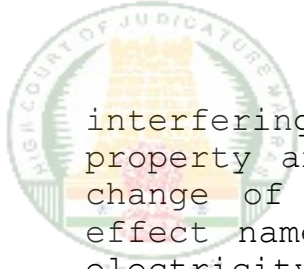
PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the Ex. and Fair order dated 21.11.2016 passed in I.A.No.610 of 2016 in O.S.No.126 of 2005 on the file of the II Additional Subordinate Judge, Madurai.

For Petitioner : Mr.V.Ramakrishnan
For R1 : Mr.K.Sulthan Allowdthin
For R2 & R3 : Given up

O R D E R

The Civil Revision Petition has been filed against the order dated 21.11.2016 in I.A.No.610 of 2016 in O.S.No.126 of 2005 on the file of the II Additional Subordinate Judge, Madurai.

2. The first respondent is the plaintiff in O.S.No.126 of 2005 and the petitioner and the respondents 2 and 3 are the defendants. The suit has been filed by the first respondent/plaintiff for declaration that she is the absolute owner of the suit property and restraining the petitioner/first defendant from in any way



interfering with the peaceful possession and enjoyment of the suit property and for a direction to the second respondent to effect change of Patta and for a direction to the third respondent to effect name transfer order in the first respondent's name for the electricity motor service connection. During the pendency of the suit, the petitioner/first defendant filed an application in I.A.No.610 of 2016 before the II Additional Sub Judge, Madurai to examine the witnesses. But the learned II Additional Sub Judge, Madurai has dismissed the application. Challenging the same, the present Civil Revision Petition has been filed by the petitioner/first defendant.

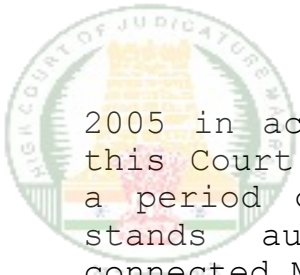
3. The learned counsel appearing for the petitioner would submit that the trial Court has failed to see that any witness can be permitted to be examined by a party to speak about the facts which are within his knowledge. He would further submit that Order XVI Rule 1(3) of C.P.C., deals with 'any witness' and the learned Judge has not appreciated the examination of witnesses and has passed a very cryptic order without any reasoning.

4. The learned counsel for the respondents would submit that the petitioner has filed the I.A.No.610 of 2016 only to drag on the proceedings, but he has no objection for allowing the application, provided that the petitioner has to examine the witnesses within a period of one week as the petitioner has earlier filed a petition for examining the witnesses and now he has filed the second application and this kind of filing repeated applications is only to prolong the matter.

5. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

6. A perusal of the order impugned herein would show that the trial Court has dismissed the application to examine the witnesses stating that since there is a direction to dispose of the case speedily, he has dismissed the application and the reason for dismissing the application cannot be sustained, if the application is reasonable and that the order passed by the trial Court itself is very cryptic. Though the learned counsel for the respondents would oppose the petition to examine the witnesses, he has stated that for early disposal of the suit, he will not have any objection to have the witnesses examined.

7. Considering the same, the order of the learned II Additional Subordinate Judge, Madurai dated 21.11.2016 in I.A.No.610 of 2016 is set aside and the Civil Revision Petition is allowed and the learned II Additional Subordinate Judge, Madurai is directed to examine the witnesses within a period of one week from the date of receipt of a copy of this order and the respondents are also ready to cross-examine the witness and such an exercise shall be completed within a period of two weeks thereafter and the II Additional Subordinate Judge, Madurai is directed to dispose of the suit in O.S.No.126 of



2005 in accordance with law, within a stipulated time as fixed by this Court. If the petitioner has not examined the witnesses within a period of one week as stipulated by this Court, the petition stands automatically dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

WEB COPY

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The II Additional Subordinate Judge,
Madurai.
2. The Tahsildar,
Thirumangalam Taluk,
Madurai District.
3. The Executive Engineer,
Tamil Nadu Electricity Board,
Usilampatti Road,
Thirumangalam,
Madurai.

+ 1 CC TO Mr.V.RAMAKRISHNAN, ADVOCATE IN SR No. 88348

AKV

TE/JC/SAR-1 : 15/12/2017 : 3P/5C

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