



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)(MD)No.319 to 321 of 2017

and

C.M.P.(MD).No.319 of 2017

Muthuraj (Died)

- 1) Mrs.Muthulakshmi
- 2) Minor Maharaja
- 3) Minor Sujeetha
- 4) Mr.Kuppurathinam

... Petitioners/Respondents/
Respondents Nos.4,5,6,7 in
all petitioners)
(Petitioners 2,3 minor
through mother and guardian
the 1st Petitioner)

Vs.

- | | |
|-----------------|--|
| 1) Mr.Thangavel | ...1 st Respondent/Petitioner/Plaintiff |
| 2) Mr.Baskar | |
| 3) Mr.Rajam | ...Respondent Nos.2 & 3/Respondent
Nos.2 & 3/Defendant Nos.2 & 3 in all
Petitions) |

Prayer: These Civil Revision Petitions are filed under Article 227 of the Constitution of India against the order and decreetal order passed in a common order I.A.Nos.386, 387 and 388 of 2016 in O.S.No.652 of 2006 dated 21.12.2016 by the Ist Additional District Munsif court, Tirunelveli.

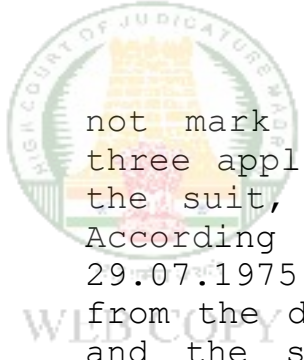
For Petitioners	:	Mr.S.Loganathan
For Respondents	:	Mr.S.Meenakshi Sundaram Senior Counsel

C O M M O N O R D E R

These Civil Revision Petitions are filed against the common order passed in I.A.Nos.386, 387 and 388 of 2016 in O.S.No.652 of 2006 dated 21.12.2016 by the Ist Additional District Munsif court, Tirunelveli.

2. The petitioners are defendants 4 to 7, the first respondent is the plaintiff, respondents 2 and 3 are the defendants 2 and 3 in the suit. The first respondent filed a suit in O.S.No.652 of 2006 on the file of Ist Additional District Munsif, Tirunelveli.

3. The first respondent filed a suit for declaration and injunction against one Muthuraj and respondents 2 and 3 and petitioners. The petitioners and other defendants filed written ~~statements~~ ^{defence} are contesting the suit. The trial commenced. The first respondent examined two witnesses and due to Advocates boycott, the case was closed on his side. The first respondent did



not mark the documents. Therefore, the first respondent filed three applications in I.A.Nos.386, 387 and 388 of 2016, to reopen the suit, to recall P.W.1 and to receive additional documents. According to the first respondent, the parent document dated 29.07.1975 bearing document No.2300/1975 was in his possession from the date of his purchase of the suit property on 03.01.1997 and the same was misplaced in his house and by his diligent search, he was able to trace the document only now. Therefore, he filed three applications and due to Advocates boycott, the first respondent could not mark the said document and evidence on his side was closed. Hence, he filed three applications.

4. The petitioner filed counter affidavit and opposed the said applications and submitted that the documents sought to be marked was with the deceased first defendant. One Balasubramanian, brother of the first defendant took the document from the first defendant to get Patta for his property bearing Plot No.241, since the document now sought to be marked is parental document for his property also. The first respondent and said Balasubramanian belonged to same political party and due to strained relationship between the petitioners and said Balasubramanian, he handed over the document to the first respondent. The first respondent has not explained for not producing the said document earlier and only to drag on the proceedings, the petitioner has come out with the present applications.

5. Before the learned Judge, the first respondent examined himself as P.W.1 and marked the document as Ex.P1. The said Balasubramanian was examined as P.W.2. The first petitioner was examined as R.W.1. and the petitioners have not filed any documents.

6. The learned Judge considering all the averments in the affidavit and counter affidavit and materials on record and documents relied on by the first respondent, allowed the applications holding that the petitioners are not disputing the genuineness of Ex.P1. They can substantiate their case that Balasubramanian handed over the said documents to first respondent by cross-examining the first respondent and parties should not suffer due to boycott of advocates.

7. Against the said order, the petitioners have come out with the present civil revision petitions.

8. The learned counsel for the petitioners reiterated the averments made in the counter affidavit and grounds raised in the present civil revision petitions and submitted that the learned Judge failed to consider the delay in producing the documents and the first respondent has not explained or not producing the document before the commencement of trial. The learned Judge has not properly appreciated the ratio in the judgment relied on by the



learned counsel for the petitioner before the Court below. The learned Judge has not exercised his power properly.

9. The learned Senior counsel appearing for the first respondent submitted that due to advocates boycott, the first respondent could not file documents and therefore, the evidence on his side was closed and the evidence on behalf of the petitioner also was closed due to advocates boycott and the petitioner has also filed an application in I.A.No.193 of 2017 to reopen the suit. The first respondent will not oppose the said application filed by the petitioners before the Court below.

10. Heard the learned counsels appearing for the petitioners and the respondents.

11. From the materials on record, it is seen that the petitioners are not disputing the genuineness of Ex.P1 as well as the fact that the said document is parental document in respect of the suit property. They are opposing for marking of the said document on the ground that R.W.2 Balasubramanian, brother of the deceased first defendant handed over the said document to the first respondent due to strained relationship between the petitioners and the said Balasubramanian and the first respondent and R.W.2 belonging to same political party. The learned Judge has considered this aspect and allowed the application on the ground that Ex.P1 is parent document of suit property and the same will assist the Court in deciding the case. Further, the conclusion of the learned Judge that the petitioner can cross examine the first respondent as to how he got Ex.P1 is valid one. It is also pertinent to note that evidence on behalf of first respondent as well as petitioners were closed due to advocates boycott.

12. In the circumstances, in the interest of justice, first respondent must be given an opportunity to let in evidence to substantiate his case. Hence, there is no irregularity or illegality warranting interference by this Court. Accordingly, all these Civil Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Ist Additional District Munsif, Tirunelveli.

+1CC to M/S.N.GA.Natraj, Advocate, SR.No. 11433

C.R.P. (PD) (MD) No.319 to 321 of 2017

27.02.2017