

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD) No.1072 of 2015 &
M.P.No.1 of 2015

1. J.Vasugi

2. J.Mathurandhakan
Rep. by Power Agent J.Vasugi

3. J.Jayabharathi

.... Petitioners

- Vs -

1. Bramanathar Temple
Keezhaiyur South, T.R.Pattinam
Rep. by its Hereditary Trustee Shankar

2. Shankar

.... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.09.2014 passed in I.A.No.285 of 2013 in O.S.No.72 of 2011 by the learned District Judge at Karaikal.

For Petitioners	:	No representation
For Respondents	:	Mr.T.Saikrishnan for M/s.Sai, Bharath & Ilan

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 17.09.2014 passed in I.A.No.285 of 2013 in O.S.No.72 of 2011 by the learned District Judge at Karaikal.

2. There was no representation for the petitioner. Heard the learned counsel for the respondents and also perused the records.

3. The application has been filed for eschewing the evidence of DW-1 only on the ground that contrary to the pleadings, he has given evidence in the Chief examination. The Trial Court, however dismissed the application, as against which, the present Civil Revision petition is filed.

4. Though the matter is pending from the year 2013, the petitioner is not represented today. This application has been filed to eschew the evidence of DW-1 only on the ground that without sufficient pleadings, he has tendered the evidence. It is to be noted that whether evidence, without any pleadings has to be accepted or not, is a matter of appreciation of evidence by the Trial Court. When the parties are put on notice to the evidence and had an opportunity to cross-examine the witnesses, nothing prevented the petitioner to cross-examine the witnesses. Therefore, the evidence given by one of the parties cannot be eschewed merely on the ground that there is no pleadings. It is premature to contend that the evidence can be eschewed without any pleadings at the initial stage. The Court has to assess the reliability of such evidence at the time of disposal of the suit. Hence, this Court does not find any illegality or infirmity in the impugned order passed by the Trial Court.

5. Accordingly, this Civil Revision Petition shall stand dismissed.
Consequently, connected miscellaneous petition is also closed.

02.11.2018

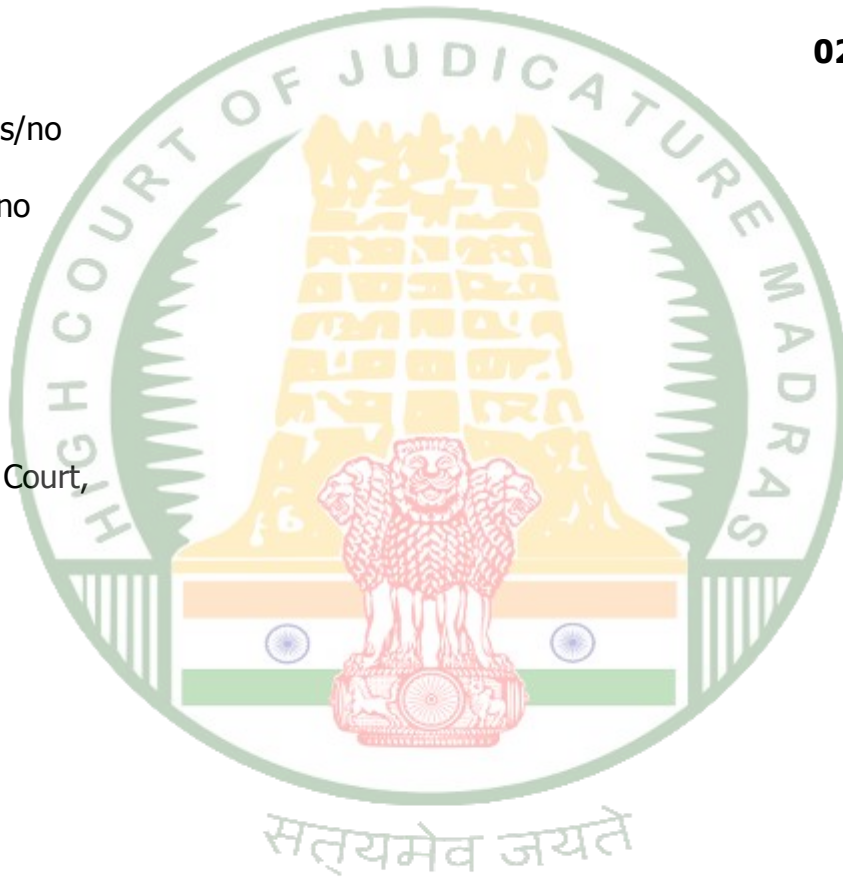
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To

The District Court,
Karaikal.



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N.SATHISH KUMAR, J.

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