



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

CRP(PD) (MD) .No. 743 of 2018
and C.M.P. (MD) No.3247 of 2018

Minor.S. Easwari Prithiyankera
through her Mother and Guardian
Tmt.S.Kokilavani

.. Petitioner

Vs.

1. R. Shiyamala
R. Selvaraj (died)

2. The Commissioner,
Dindigul Municipality,
Municipal Office,
Main Road, Dindigul.

3. R.S. Jeeva Lakshmi

4. R.S. Nandhini

5. R.S. Ramaraj Kiran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the Fair and Decretal order dated 08.02.2018 made in the I.A.No.114 of 2018 in O.S.No.230 of 2012 on the file of the Additional Sub Court, Dindigul.

For Petitioner : Mr. H. Lakshmi Shankar

For Respondent-1 : Mr.D.Venkatesh

For Respondent-2 : Mrs.V.P.M. Vaishnavi,
Government Advocate.

For Respondents-3 to 5 : No appearance.

O R D E R

The petitioner has come forward with this Civil Revision Petition, to call for the records relating to the fair and decretal order, dated 08.02.2018 made in the I.A.No.114 of 2018 in O.S.No.230 of 2012, on the file of the Additional Sub Court, Dindigul.



2. The petitioner is the plaintiff and the respondents are the defendants in O.S.No.230 of 2012. The suit in O.S.No.230 of 2012 has been filed by the minor daughter of one Srinivasan, represented by her mother, seeking partition and separate possession of 1/3rd share in the suit property, before the learned Additional Sub-Court, Dindigul. The plaintiff's mother was examined as P.W.1. Reopening of the plaintiff's side evidence is necessary to establish the case of the petitioner. Hence, the petitioner had filed I.A.No.114 of 2018 in O.S.No.230 of 2012 to reopen the plaintiff's side evidence. But, the interlocutory application was dismissed by the Trial Court. Aggrieved over the same the petitioner has come forward with this Civil Revision Petition.

3. Heard both sides and perused the documents available on record.

4. The petitioner, who is the plaintiff, has filed an application in I.A.No.114 of 2018 in O.S.No.230 of 2012, for reopening the evidence of the plaintiff. In her affidavit she has stated as follows:

"I submit that the Petitioner/Plaintiff has filed the suit for Partition and separate possession of her 1/3rd share in the suit property and for other reliefs against the Respondents/Defendants and it is pending disposal. It is contended by the 1st Respondent/1st Defendant that my husband had attested the alleged Will on 10.03.2005. The D.W.2 has also deposed that my husband was present on that day in the offices of the document writer and the Sub-Registrar etc. But it is learnt that my husband who was working in the E.B. Office, had attended his office on that date. Hence it becomes necessary that the evidence of the Petitioner will have to be reopened in order to examiner further witnesses to disprove the said contentions of the 1st Respondent. Otherwise the Petitioner/Plaintiff will be put to much hardship which can not be compensated in any manner".

The petitioner states that re-opening of the evidence of the plaintiff is necessary to establish the case of the petitioner. Therefore, she has filed the application to reopen the evidence of the plaintiff.

5. Since, the petitioner stated valid reason in para 2 of her affidavit, this Court is inclined to permit the petitioner to reopen the evidence of plaintiff by way of recalling the witness.

6. In the result, this Civil Revision Petition is allowed. The learned Additional Sub-Court, Dindigul, is directed to issue direction for recalling the evidence of the plaintiff and the said examination to be completed within a period of one week. On completion of examination of the witness, the trial Court is



directed to dispose of the suit in O.S.No.230 of 2012 within a period of one month, without giving any unnecessary adjournments to either parties. The parties are directed to give their fullest cooperation for early disposal of the suit. Consequently, connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Additional Sub Judge,
Dindigul.

2.The Commissioner,
Dindigul Municipality,
Municipal Office,
Main Road, Dindigul.

+1cc to M/s.H. Lakshmi Shankar, Advocate, SR.No.64693
+1cc to M/s.D.Venkatesh, Advocate, SR.No.64737.

CRP(PD) (MD).No. 743 of 2018

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RAM/SV MMS/SAR 4/31.05.2018/3P/5C