



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 05.03.2018  
CORAM

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

WEB COPY

C.R.P. (MD) No.252 of 2018 (PD)  
and  
C.M.P. (MD) No.1062 of 2018

1.Magubu Beevi

2.Ayisha Mariam

....Petitioners /Petitioners /  
Plaintiffs

Vs.

Meerammal

..Respondent/Respondent/  
Defendant

**PRAYER:** Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 27.11.2017, passed in I.A.No.258 of 2016 in O.S.No.85 of 2011 by the learned Subordinate Judge, Ramanathapuram.

For Petitioner : Mr.P.Senthurpandian

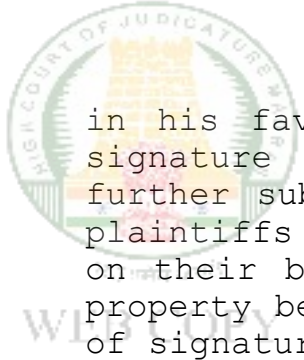
For respondent : Mr.J.Madhu

**ORDER**

This civil revision petition has been filed by the revision petitioners / plaintiffs as against the order, dismissing the petition filed by the revision petitioners / plaintiffs under Order 13 Rule 10 C.P.C. to send for the entire case bundle in A.S.No.4 of 2005 and O.S.No.58 of 1996 on the file of the District Munsif Court, Thiruvadanai, dated 27.11.2017, passed by the Court below.

2. The revision petitioners / plaintiffs have filed the suit in O.S.No.85 of 2011 for setting aside the judgment and decree passed in A.S.No.4 of 2005 on the ground that it has been fraudulently obtained. During trial, the revision petitioners / plaintiffs have filed I.A.No.258 of 2016 seeking to send for the entire case bundle in A.S.No.4 of 2005 and O.S.No.58 of 1996. After contest, the Court below has dismissed the said petition holding that he has not specified the particulars of the document required to be produced and he could produce mechanically reproduced copies by obtaining certified copies from the concerned authority.

3.The learned counsel for the revision petitioners / plaintiffs would submit that the respondent obtained decree in A.S.No.4 of 2005



in his favour by committing fraud, impersonation and forging the signature of the revision petitioners / plaintiffs. He would further submit that in the said appeal, the revision petitioners / plaintiffs never received any notice, engaged any lawyer to appear on their behalf and filed a compromise memo stating that the suit property belonged to the respondent. In order to prove the forgery of signatures and thumb impressions of the revision petitioners, the entire original bundle relating to the suit in O.S.No.58 of 1996 and A.S.No.4 of 2005 are necessary and therefore, it could not be specified and mechanically reproduced copies could not be sufficient for comparison of the signature and thumb impression made therein with the admitted one. The Court below without considering the same has dismissed the said application and hence, the order passed by the Court below is liable to be set aside. Thus, he prayed to allow this civil revision petition.

4. The learned counsel for the respondent would submit that while the case is posted for the cross examination of DW1, the petitioner has filed this petition for delaying the matter and that after knowing about missing of the records in A.S.No.4 of 2005, the revision petitioners / plaintiffs have purposefully filed the said petition and therefore, the Court below has rightly rejected the same. Thus, he prayed for dismissal of this civil revision petition.

5. Heard the learned counsel appearing for the petitioners and the learned counsel for the respondent and perused the records carefully.

6. According to the revision petitioner, the respondent obtained judgment and decree in A.S.No.4 of 2005 in his favour by committing fraud, impersonation and forging the signature of the revision petitioners / plaintiffs and they never engaged any counsel for appearing on behalf of them and hence, in order to prove the same, the original documents in A.S.No.4 of 2005 and O.S.No.58 of 1996 are necessary. The revision petitioners / plaintiffs could obtain only the certified copy of the judgment in O.S.No.58 of 1996 and decree in A.S.No.4 of 2005. According to the revision petitioners, in the documents viz., notice, vakalath, compromise memo, etc., the signature or thumb impression of the revision petitioners, who was arrayed as respondents in A.S.No.4 of 2005, could be found therein and therefore, the entire case bundles are necessary. This Court is of the view that the submission of the revision petitioners can be accepted. This Court is also of the view that the entire case bundles in O.S.No.58 of 1996 and A.S.No.4 of 2005 are necessary documents.

7. Though it is stated by the Court below that the photocopy of the documents would be sufficient, this Court is of the view that the photocopy of the document would not be sufficient for proper comparison of the signature / thumb impression. It is seen that the original bundles in O.S.No.58 of 1996 and A.S.No.4 of 2005 are missing, in respect of which the revision petitioners also gave a



complaint to the Principal District Judge, Ramanathapuram on 15.06.2009. If the original documents is yet to be traced out, the available documents / photocopy of the documents could be directed to be produced.

8. In view of the above, by allowing the civil revision petition, the order impugned in this petition is set aside and the Court below is directed to send for the entire bundle in O.S.No.58 of 1996 and A.S.No.4 of 2005. If the original bundles are not yet to be traced out, the Court below may be directed to send for the available documents / photocopy of the documents relating to O.S.No.58 of 1996 and A.S.No.4 of 2005. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,  
Ramanathapuram.
2. The District Munsif court,  
Thiruvadanai.

+1CC to Mr.P.Senthur Pandian, Advocate in SR.No.53514,  
+1CC to Mr.J.Madhu, Advocate in SR.No.52800.

GCG

DS/KKR/SAR-3 :18.05.2018: 3P/5C

C.R.P. (MD) No.252 of 2018 (PD)  
05.03.2018