



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P.(MD)No.494 of 2018 and
CMP(MD) .No. 2163 of 2018

WEB COPY

1.Mary Glory Bai

2.Francis Dharmarani

: Petitioners / Defendants 3 & 4

-Vs-

1.G. Dhas

2.Rosammal

3.Chellaiyan

4.Kamalam

5.Mary

6.Renjitham, D/o.Gnanamony

7.Chellam

8.Sornam

9.Renjitham, W/o.Mariadhas

10.Sindhukumar

11.Sivakumar

12.Subhashini

: Respondents / Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decreetal order passed in A.S.No.71 of 2014 dated 22.12.2017 on the file of the Principal District Judge, Nagercoil.

For Petitioners : Mr.S. Titus

For respondent Nos.1 to 6 : Mr. V. Meenakshi Sundaram

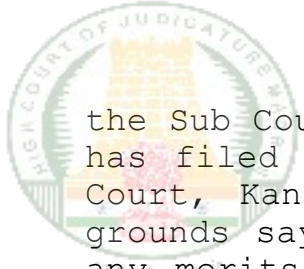
For respondent Nos.7 & 8 : Mr. R. Murugan

For respondents Nos.9 to 12 : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the order and decreetal order passed in A.S.No.71 of 2014, dated 22.12.2017 on the file of the learned Principal District Judge, Nagercoil.

2. The case of the revision petitioners, who are the defendants 3 and 4 in the suit is that based on the final decree passed in I.A.No. 37 of 2007 in O.S.No.87 of 1990, on the file of



the Sub Court, Kuzhithurai, the first respondent herein / plaintiff has filed an appeal suit in A.S.No.71 of 2014 before the District Court, Kanyakumari. Apart from this, he has also raised various grounds saying that the Judgment passed in the suit is not having any merits. Without considering the nature of the grounds raised either by the appellant or by the respondents, the Court below has simply allowed the Appeal suit. Therefore, the revision petitioners have filed the present Civil Revision Petition invoking Article 227 of the Constitution of India challenging the order passed in A.S.No.71 of 2014 dated 22.12.2017 on the file of the Principal District Judge, Nagercoil.

3. I have heard the learned counsel appearing on either side and perused the materials available on record.

4. Admittedly, the first respondent, plaintiff in the suit has filed a appeal suit in A.S.No.71 of 2014, before the Appellate Court challenging the order passed in I.A.No.37 of 2007 in O.S.No. 87 of 1990, in which, the Judgment and Decree passed in the final decree application in I.A.No.37 of 2007, appeal only lies. If the appeal lies against the order passed in A.S.No.71 of 2014, the Second Appeal only will lie and in which, the petitioner should invoke the appeal provision before this Court, in which, the present Civil Revision Petition is not at all maintainable. Hence, this Court is inclined to pass the following order:

5. In the result,

(i) This Civil Revision Petition is dismissed on the ground that this Civil Revision Petition is not at all maintainable, which was filed against the Judgment and Decree passed in A.S.No.71 of 2014, dated 22.12.2017, by the learned Principal District Judge, Kanyakumari at Nagercoil.

(ii) The petitioners are given liberty to file a Second Appeal before this Court. No costs. Consequently, the connected Miscellaneous Petition is closed.

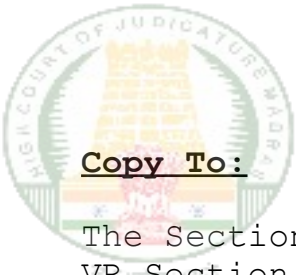
Sd/-
Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Principal District Judge,
Nagercoil.



Copy To:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**.

+1CC to Mr.S. Titus, Advocate, SR.No. 71306
+1CC to Mr. R. Murugan, Advocate, SR.No. 71369

C.R.P.(MD)No.494 of 2018 and
CMP(MD).No. 2163 of 2018
05.07.2018

TRP
ES/PN/SAR 1/25.07.2018/3P/6C