



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON: 17.09.2018
DELIVERED ON : 01.10.2018
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) No.1052 of 2015
and
M.P. (MD) No.1 of 2015

Uma Maheswari

.. Petitioner

Vs.

1.R.S.Padma
2.R.Rajeswari
3.Raguram
4.Maheswari
5.The District Registrar,
Registration Office,
Sivagangai Town and District.
6.The Sub Registrar,
Paramakudi Town,
Ramnad District.

.. Respondents

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed dated 22.04.2015 made in I.A.No.276 of 2015 in O.S.No.56 of 2014 on the file of the District Munsif Court, Paramakudi.

For Petitioner	: Mr.P.T.S.Narendra Vasan
For Respondents 1 to 4	: Mr.S.Siva Thilakar
For Respondents 5 and 6	: No Appearance

ORDER

Heard Mr.P.T.S.Narendra Vasan, learned counsel appearing for the petitioner and Mr.S.Siva Thilakar, learned counsel appearing for the respondents 1 to 4.

2.This petition has been filed to set aside the fair and decreetal order passed dated 22.04.2015 made in I.A.No.276 of 2015 in O.S.No.56 of 2014 on the file of the District Munsif Court, Paramakudi.

3.The petitioner is the plaintiff and the respondents are the defendants in the suit. The petitioner herein filed the suit for permanent injunction against the respondents herein. The petitioner filed I.A.No.276 of 2015 to reopen the case for examination of witness. The trial Court dismissed the petition. Against the order of the dismissal, the present petition has been filed by the petitioner herein.



4. On the side of the petitioner, it is stated that the first schedule suit property belonged to the petitioner herein sale deed in Ex.A1. The petitioner executed a settlement deed, Ex.A3 in favour of her daughter. Ex.A2 is the rectification deed. The burden is upon the petitioner to prove the case. Hence, the petitioner want to examine the attestor of Ex.A1 and A2 and to examine some other witnesses and it is prayed that the case is to be reopened.

5. On the side of the petitioner, it is stated that the petitioner's father purchased the suit property from one Palanisamy on 20.12.1995 and the eastern boundaries is shown as common path way which is the second schedule property. As the measurement was wrongly stated, a rectification deed was registered on 22.05.1996. The petitioner's father executed a settlement deed in favour of his two sons and the petitioner. The first schedule property is the third item in the document. The vendor of the petitioner's father was already dead. The respondents 1 to 4 are the legal heirs of the vendor. The respondents have not adduced any oral evidence. As the respondents did not get into the box, they could not be questioned about the documents. Hence, the petitioner want to examine the attestor of the documents. Though the respondents did not file any counter in the petition, the lower Court has dismissed the petition.

6. On the side of the respondents, it is stated that after the examination of both side witness, when the case was posted for arguments, the petitioner has filed this revision petition to reopen the case to adduce futher evidence. The petitioner got two adjournments for arguments. Later, he filed this revision petition. Though an opportunity was given to the petitioner to adduce evidence on her side, the petitioner did not avail the opportunity. There is no bonafide reasons or necessity for filing this petition.

7. The learned counsel appearing for the respondents relied on the Judgment passed by this Court in the case of P.Mohan (Deceased) and another v. M.K.Azhagiri and others in (2013) 8 MLJ 51, which reads as follows:

"Application to recall and reopen evidence of witness and to mark documents cannot be maintained at belated stage of conclusion of trial"

8. Records perused. The petitioner claimed the property through the settlement deed executed by her father. It is stated that the petitioner's father purchased the property from the respondent's father. A perusal of the records reveals that the respondents have not filed any counter in I.A.No.276 of 2015. Now the respondents are agitating this revision petition. Except the fact that this petitioner has filed this petition at a belated stage, there is no other reasons given by the trial Court for dismissing the petition and this petition is filed at the stage of arguments. A perusal of the records reveals that the respondents did not come forward to examine any witness on their side. The



petitioner is not able to prove the documents by cross examining the defence side witnesses.

9. In this circumstances, an opportunity for the petitioner to prove her case is to be given. The petitioner has stated that she want to examine the attestor of the documents and some other witness. The burden is upon the petitioner to prove the case, hence, an opportunity to prove her case is to be given to her in the interest of justice. In the above circumstances, this Civil Revision Petition is allowed and the order passed by the trial Court is set aside. No Costs. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The District Munsif,
Paramakudi.

+1CC to Mr.P.T.S.Narendra Vasan, Advocate, SR.No.87862

C.R.P. (PD) (MD) No.1052 of 2015
01.10.2018

MRN

ES/SV/SAR 1/08.11.2018/3P/3C