



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.517 of 2017 and
C.M.P.(MD)No.2412 of 2017

1.M.Oyyammal
2.S.Sundar

... Revision
Petitioners/Petitioners/ Plaintiffs

Vs.

1. K.Seeman
2. S.Ganesh
3. N.Venkatesh

... Respondents/Respondents/
Defendants

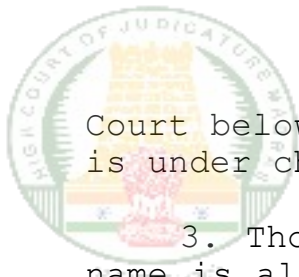
PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 31.01.2017 passed in I.A.No.1145 of 2016 in O.S.No.264 of 2010 on the file of the learned District Munsif, Melur and allow the present Civil Revision petition.

For Petitioners	: Mr.M.Saravanan, for Mr.R.Subramanian
For Respondent No.3	: No appearance.

O R D E R

The Revision petitioners are the plaintiffs in O.S.No.264 of 2010 on the file of the learned District Munsif, Melur.

2. The suit was filed for declaring the sale deed dated 31.05.2007 executed by the first defendant in favour of the third defendant as null and void. Even according to the defendants, the suit property originally belonged to one Mothi Karuppanan Ambalam, the husband of the first Revision petitioner herein. The Revision petitioners herein after filing the proof affidavit and before getting into the witness box for cross examination, filed I.A.No.1145 of 2016 for introducing an additional fact with regard to tracing of title. The said application was dismissed by the



Court below by Order dated 31.01.2017. The correctness of the order is under challenge in this Civil Revision petition.

3. Though the contesting respondent had filed a caveat and his name is also printed in the cause list, he has not chosen to appear before this Court today.

4. As rightly pointed out by the learned counsel for the Revision petitioners, the yardstick set out in Proviso to Order 6 Rule 17 of C.P.C., need not be so strictly applied in this case, because the Revision petitioners had not yet entered into the witness box. That apart, the Revision petitioners are not introducing a new case. It is not altering the character of the suit. Therefore, this Court is of the view that the Court below ought to have adopted an indulgent view.

5. In this view of the matter, the order passed by the learned District Munsif, Melur, in I.A.No.1145 of 2016 in O.S.No.264 of 2010, dated 31.01.2017, is set aside.

6. The Civil Revision petition stands allowed, accordingly. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (cs-II)

To

1. The District Munsif,
Melur.

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1CC TO MR.R.SUBRAMANIAN, ADVOCATE IN SR.NO.78032.

PMU

DS SKN SAR-2;07.09.2018; 2P/5C

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