



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.1230 of 2018

and

C.M.P. (MD) .No.5221 of 2018

Soosai Micheal

... Petitioner/Petitioner/
Plaintiff

Vs.

1. Jasmin Mary
2. Jackulin Mary
3. John Bosco
4. Jaslin Mary

... Respondents/Respondents/
Defendants

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order passed in I.A.No.65 of 2018 in O.S.No.225 of 2015 on the file of the Principal District Munsif Court, Kuzhithurai dated 14.03.2018.

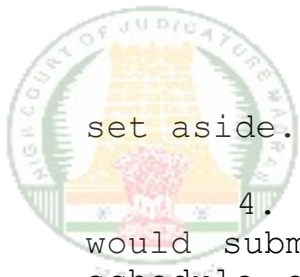
For Petitioner	:	Mr.C.Godwin
For R1	:	No appearance
For R2 to R4	:	Mr.K.N.Thambi

O R D E R

The Civil Revision Petition is filed against the order passed by the Principal District Munsif Court, Kuzhithurai in I.A.No.65 of 2018 in O.S.No.225 of 2015, dated 14.03.2018.

2. The petitioner is the plaintiff and he has filed a suit in O.S.No.225 of 2015 before the Principal District Munsif Court, Kuzhithurai against the respondents/defendants for declaration and permanent injunction. During the pendency of the suit, the petitioner/plaintiff filed an application in I.A.No.65 of 2018 in O.S.No.225 of 2015, to re-open the case for the purpose of adducing further evidence. The Principal District Munsif Court, Kuzhithurai has dismissed the application. Against which, the present Civil Revision Petition is filed before this Court.

3. The learned counsel appearing for the petitioner would submit that the petitioner/plaintiff has not examined any independent witness. He would further submit that the learned Principal District Munsif, Kuzhithurai, in his order dated 14.03.2018, has clearly stated that in a suit for easement by prescription, examination of an independent witness is necessary one to prove the existence and period of alleged pathway. Hence, the order passed by the learned Principal District Munsif, Kuzhithurai in I.A.No.65 of 2018, dated 14.03.2018 is liable to be



set aside.

4. The learned counsel appearing for the respondents 2 to 4 would submit that the petitioner/plaintiff has not produced any schedule of witness, while the application in I.A.No.65 of 2018 was filed. Apart from this, the petitioner has filed this application, at the time of argument, only with an intention to protract the proceedings.

5. Considering the above said submission, this Court is inclined to give one more opportunity to the petitioner/plaintiff to examine the witness viz., Sudhakaradhas and the Schedule of Witness was enclosed in Page No.19 of the typed set of papers and except the said witness, he should not permit to examine any other witnesses.

6. In the result, the Civil Revision Petition is allowed and the order passed by the learned Principal District Munsif, Kuzhithurai in I.A.No.65 of 2018, dated 14.03.2018 is set aside and the trial Court is directed to permit the petitioner/plaintiff to examine the Schedule of Witness viz., Sudhakaradhas, S/o.Thanuvar, Mohanamandaram Veedu, Kavoorkonam, Arumana Post, Manjalumoodu Village, Vilavancode Taluk and except the said witness, the trial Court should not permit the petitioner to examine any other witnesses. By way of cross-examination, the petitioner/plaintiff will introduce any documents through the independent witness viz., Sudhakaradhas, for rebutting the same, the trial Court is directed to permit the respondents/defendants for cross-examination and to give evidence. The said proceedings should be completed within a period of three weeks from the date of receipt of a copy of this order and the trial Court is directed to dispose of the suit in O.S.No.225 of 2015 within a period of two months thereafter. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Principal District Munsif,
Kuzhithurai.

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

+1cc to Mr.C.Godwin, Advocate SR.No.74010

Akv

MK/KAK/SAR 2/14.08.2018/2P/5C