



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) No.2386 of 2018

and

C.M.P. (MD) No.10706 of 2016

1.M.S.Ayyappan

2.Sukumaran

3.Manivasagam

... Petitioners

/Vs./

Kalaivani

... Respondent

Prayer: Civil Revision Petition - filed under Article 227 of the Constitution of India, to call for the records in I.A.No.652 of 2018 in O.S.No.1775 of 2012 on the file of the learned Principal District Munsif, Tiruchirappalli and set aside the fair and decreetal order made therein dated 01.09.2018.

For Petitioners

: Mr.M.Siddharthan

ORDER

O.S.No.1775 of 2012 on the file of the District Munsif Court, Tiruchirappalli was filed by the revision petitioners herein against one Kalaivani and the Government. In the said suit, I.A.No.652 of 2018 was filed under Order 8 Rule 1-A (3) CPC. The said IA was allowed by order dated 01.09.2018. The same is questioned in this civil revision petition at the instance of the plaintiffs.

2. The learned counsel appearing for the revision petitioners pointed out that Kalaivani is the first defendant in the suit, but the affidavit in support of I.A.No.652 of 2018 has been signed by her husband namely Chidambaram. Therefore, this IA itself is not maintainable.

3. I am unable to agree with the said submission of the learned counsel appearing for the revision petitioners.

4. Section 120 of the Indian Evidence Act states that in all civil proceedings, the parties to the suit, the husband or wife of the suit shall be competent witnesses. Likewise, Order 19 Rule 3 CPC states that the affidavits shall be confined to such facts as a deponent is able of his own knowledge to prove.

5. In the present case, when the husband can be a competent witness on behalf of his wife, who is a party to the suit, there is nothing wrong in the husband of the first defendant namely Chidambaram affirming the affidavit filed in support of I.A.No.652



of 2018. The said Chidambaram has clearly averred that Kalaivani is the first defendant in the suit. The said IA, even though the affidavit filed in support of the same is sworn to by the husband, is very much maintainable.

6. At this stage, the learned counsel appearing for the revision petitioners states that the suit is of the year 2012. The evidence on the side of the plaintiff is already over. Therefore, a direction is issued to the learned Principal District Munsif, Tiruchirappalli, to dispose of the O.S.No.1775 of 2012, on merits and in accordance with law, within a period of four months from the date of receipt of copy of this order.

7. With the above observations and directions, this civil revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Principal District Munsif, Tiruchirappalli.

+1cc to Mr.M.Siddharthan , Advocate Sr.No.92879

SM

KM/BK/SAR3/20.12.2018/2P/3C

Order made in
C.R.P. (MD) (PD) No.2386 of 2018
29.10.2018