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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (PD) (MD) No.1330 of 2016

and

CMP(MD)No.6347 of 2016

The Joint Commissioner,
Arulmigu Dhandayuthapani Swami Kovil,
Palani.

... Petitioner/Petitioner/Plaintiff

Vs.

P.Sivanandam @ Pulipani Pathira Sivananda
Swamikal

...Respondent /
Respondent /Defendant

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 29.03.2016 in I.A No.195 of 2016 in O.S No.4 of 2003 on the file of the District Munsif, Palani.

For Petitioner	: Mr.K.Govindarajan
For Respondent	: Mr.M.Saravanan for Mr.R.Subramanian

ORDER

The plaintiff in O.S No.4 of 2003 on the file of the learned District Munsif Court, Palani is the revision petitioner herein. The revision petitioner filed I.A No.195 of 2016 under Section 10 of CPC for staying the suit proceedings till the disposal of SA (MD)Nos.589 and 590 of 2015 pending before this Bench. The court below by order dated 29.03.2016 dismissed the said I.A. Questioning the same, this civil revision petition has been filed.

2.The learned Trial Munsif has observed that the plaintiff has not filed any document to show that the matter in issue in this suit is directly and substantially in issue in SA(MD)Nos.589 and 590 of 2015. In fact, the burden is on the person seeks to invoke Section 10 of CPC to show that the requirements of Section 10 are necessary in this case. This burden has not been satisfied by the plaintiff.

3.Therefore, the order impugned in this civil revision petition cannot be faulted. But then, the grievance of the petitioner is that no dead body of any person should be buried in the suit property. This Court, therefore, gives liberty to the revision petitioner to file an appropriate application in SA (MD) Nos.589 and 590 of 2015.



4. With this liberty, this civil revision petition is dismissed.
No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-
Assistant Registrar(P&A)

Sub Assistant Registrar(CS-IV)

To

The District Munsif, Palani.

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

+1CC to Mr.K.Govindarajan, Advocate, SR.No.87033
+1CC to Mr.N.C.Ashok Kumar, Advocate, SR.No.87002

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