



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (PD) (MD) Nos.1526 to 1528 of 2016
and
CMP(MD)No.7800 of 2016

1.Muthuveera Konar

2.Pakkiathamal

... Petitioners in all cases

Vs.

1.K.Nallaiah Konar

2.N.Mathiyazhan

3.N.Kannan

... Respondents in all cases

(3rd respondent was set exparte
before lower court. Hence,
he is given up in this proceedings)

Prayer : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders in I.A Nos.761, 762 and 763 of 2015 in O.S No.24 of 2011 dated 26.04.2016 on the file of the District Munsif, Aranthangi.

For Petitioners : Mr.D.Saranya

For Respondents : Mr.R.P.Ramachanthiran for R1 & R2

ORDER

The plaintiffs in O.S No.24 of 2011 on the file of the learned District Munsif Court, Aranthangi are the revision petitioners herein. It is a suit for declaration and recovery of possession. Even in the plaint, there is a reference to the letter dated 26.02.2003 said to have been written by the second defendant. But, the second defendant in his written statement has denied having written the said letter. The letter was shown to the second defendant when he was in the witness box. He denied having written the said letter. After his evidence was concluded, the plaintiffs filed three interlocutory applications. First one was for re-opening. The second was for recall of DW.2 and the third one was for to call upon the D.W 2 to write out the relevant signature in the open court. The court below by the orders impugned in these civil revision petitions dismissed all the three



interlocutory applications. These orders are under challenge in these three civil revision petitions.

2. Heard the learned counsel on either side.

3. This Court went through the contents of the plaint. A clear reference is made to the letter in question. A copy of the letter was filed along the plaint. In these circumstances, when the revision petitioners went to rely upon the document in question, it is not proper on the part of the court below to dismiss the I.As on the footing that the letter is not going to assist the plaintiffs' case.

4. In this view of the matter, the orders impugned in these civil revision petitions are set aside and these three civil revision petitions are allowed. The court below shall dispose of the suit on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar(CS-I)

To

The District Munsif, Aranthangi.

+1cc to Mr.N.BALAKRISHNAN, Advocate, SR.No.87343

+1cc to Mr.R.P.RAMACHANTHIRAN, Advocate, SR.No.87474

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