



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.08.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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C.R.P. (NPD) (MD) .No.1574 of 2016 and
C.M.P. (MD) No.7690 of 2016

M.Athmanathan

... Petitioner/Petitioner/
Plaintiff

Vs.

1. Kasilingam

2. Packiyam (Died)

3. Ramakrishnan

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order in I.A. No.446 of 2016 in O.S.No.162 of 2009 on the file of the District Munsif Court, Aranthangi, dated 28.04.2016 by allowing this Civil Revision petition.

For Petitioner : Mr.N.Balakrishnan
For R-1 : Mr.K.Baalasundharam
For R-2 : Dispensed with.
For R-3 : No appearance.

O R D E R

The Revision petitioner herein filed O.S.No.162 of 2009 on the file of the learned District Munsif, Aranthangi, seeking relief of declaration and permanent injunction.

2. Trial in the suit has concluded. At the stage of arguments, the plaintiff took out I.A.No.446 of 2016 for re-opening the case. The purpose of re-opening appears to be twofold. The plaintiff wants to mark a copy of the Judgment dated 08.08.2016 in A.S.No.4 of 1996 on the file of the learned Additional District Judge, Pudhukottai and also to seek appointment of Advocate Commissioner for correlation. The said Interlocutory application was dismissed by order dated 28.04.2016. Assailing the correctness of the order in question, this Civil Revision petition has been filed.

3. Heard the learned counsel on either side.

4. The learned counsel for the Revision petitioner pointed out that the A.S.No.4 of 1996 was one between one Arumugam Chettiyar



and another and Vellaichamy and two others. The Revision petitioner's vendor was the said Arumugam Chettiyar. He would submit that the respondents in the said first appeal are the vendors of the respondents herein. He therefore wanted to mark the said appeal Judgment through the third defendant.

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5. This Court is of the view that permitting the Revision petitioner to mark the Judgment in A.S.No.4 of 1996 on the file of the learned Additional District Judge, Pudhukottai, can be allowed. Of course, this would be subject to proof. The learned counsel for the Revision petitioner submits that he would not press the other Interlocutory application for appointment of Advocate Commissioner for correlation. Therefore, this Court is of the view that the matters will not get indefinitely prolonged. Recording the said undertaking given by the Revision petitioner, the order passed by the learned District Munsif, Aranthangi, in I.A.No.446 of 2016 in O.S.No.162 of 2009, dated 28.04.2016, is set aside.

6. The Civil Revision petition stands allowed, accordingly. It is made clear that the case reopening is permitted only for the limited purpose of permitting the Revision petitioner to mark the Judgment in A.S.No.4 of 1996, dated 08.08.2016 on the file of the learned Additional District Judge, Pudhukottai, through the third defendant. This marking is subject to proof. The parties are at liberty to canvass their arguments with regard to the proof of the said documents in the main suit. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar(CS-II)

To
The District Munsif,
Aranthangi.

Copy to:
The Record Keeper,
V.R.Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.N.Balakrishnan, Advocate SR.No.78527
+1cc to Mr.K.Baalasundharam, Advocate SR.No.78703

Pmu

MK/SKN/SAR 2/03.09.2018/2P/6C