



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).Nos.18 & 19 of 2016 and
C.M.P.(MD)No.96 of 2016 &
C.M.P.(MD)Nos.1286 & 1287 of 2018

Mir Ahasan Muzaffar Imthiaz

... Petitioner/Petitioner/
5th Defendant
in both petitions

Vs.

1. A.Shaheen Hasmath Hanam
2. A.Yasmeen Farhat Hanam

... Respondents/Respondents/
Defendants 6 and 7
in both petitions

3. Raffathunnisha (Died)

... Respondent/Respondent/
Plaintiff in both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to call for the records pertaining to the order dated 16.09.2015 in I.A.Nos.364 and 365 of 2015 in O.S.No.42 of 2008 on the file of the learned II Additional District Judge, Thiruchirappalli and set aside the same and allow these Civil Revision petitions.

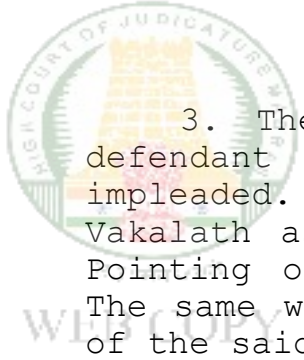
(in both petitions)

For Petitioner : Mr.M.Killivalavan
For R-1 & R-2 : Mr.S.Thirupathi
For R-3 : Died Memo filed USR 6492.

C O M M O N O R D E R

The fifth defendant in O.S.No.42 of 2008 on the file of the learned II Additional District Judge, Thiruchirappalli, is the Revision petitioner herein.

2. The said suit was filed by the third respondent herein seeking the relief of partition. The plaintiff and the original defendant were sisters. After the death of the original defendant, the other co-sharers were came on record.



3. The grievance of the fifth defendant is that the sixth defendant herein did not file any application to get herself impleaded. The plaintiff herself had forged her signature in the Vakalath as well as in the affidavit and get made her impleaded. Pointing out this, the fifth defendant filed I.A.No.364 of 2015. The same was dismissed on 16.09.2015. Questioning the correctness of the said order, C.R.P.(MD)No.18 of 2016 came to be filed.

4. The learned counsel appearing for the Revision petitioner pointed out that since the case was posted for arguments he had filed an application for reopening. Since he was alleging forgery, he filed another I.A.No.365 of 2015 for sending those documents for expert opinion. He contended that the litigant must approach the Court with clean hands and one cannot be allowed to play forgery in the Court.

5. I fully subscribe to the submissions and sentiments expressed by the learned counsel for the Revision petitioner. They cannot be faulted. But then, in this case, it is seen that the parties herein are close relatives and they are co-sharers. This is after all a suit for partition. Therefore, even if the present suit is dismissed, the rights of the other parties cannot be foreclosed. In this view of the matter the Court below dismissed the said applications filed by the Revision petitioner herein. Therefore, the orders passed by the learned II Additional District Judge, Tiruchirappalli, in I.A.No.364 and 365 of 2015, dated 16.09.2015, is affirmed and the Civil Revision petitions stand dismissed. But then, the dismissal of the Civil Revision petitions will not mean that this Court has turned a blind eye or condoned the acts which are alleged to have been committed by the plaintiff. It is open to the Court below to take appropriate action in accordance with law. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The II Additional District Judge,
Thiruchirappalli.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai. 2 copies

: 2 CC TO Mr.D.Sethil , ADVOCATE IN SR No.80049,80050.

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