



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P(MD) (PD).No.1892 of 2016

and

C.M.P(MD).No.9038 of 2016

1.Ayusha Beevi
2.Rameeja Hajara ... Petitioners/Respondents/Plaintiff

vs.

1.Taj Nisha
2.Farhana
3.Mariam
4.Noorul Jhan
5.Rajendran
6.Sukumar ... Respondents/Petitioners/Defendants 2,4,5,7,13
& 14

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the order dated 12.02.2016 made in I.A.No.470 of 2015 in O.S.No.79 of 2011 on the file of the District Munsif Court, Tiruchendur, Thoothukudi District by allowing this civil revision petition.

For Petitioners : Mr.S.R.Anbarasu

For Respondents : Mr.M.P.Senthil For R1,3,5 & 6

O R D E R

The plaintiffs in O.S.No.79 of 2011 on the file of the District Munsif Court, Tiruchendur are the revision petitioners herein. It is a suit for partition and separate possession. In the said suit, the 10th defendant Badhur Nisha was examined as D.W.1. The respondents herein had made an endorsement that they did not have any further evidence to adduce on their side. The matter was posted for argument. At that stage, the respondents herein filed an Interlocutory Application in I.A.No.470 of 2015 for cross-examining D.W.1. The said interlocutory application was allowed by order dated 12.02.2016. Questioning the same, the plaintiffs have filed the present civil revision petition.

<https://hcservices.courts.gov.in/hcservices/> The learned counsel appearing for the revision petitioners/ plaintiffs contended that unless the party, who is seeking to cross-examine a particular witness, is able to show that their respective



interest are varying with each other, the question of permitting one to cross-examine with other will not arise.

3. I am in full agreement with the said contention raised Mr.S.R.Anbarasu, learned counsel for the revision petitioners. But, it is seen that the said D.W.1, during her examination, had made a categorical statement that he has no objection for decreeing the suit as prayed for. Thus, it is very clear that the said D.W.1 is sailing with the plaintiffs and not with the respondents herein. Thus, it is obvious that the stand of the respondents herein and the stand of the said D.W.1 are varying with each other. Hence, the Court below rightly allowed I.A.No.470 of 2015 filed by the respondents herein.

4.No case has been made out for interference, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

rmk

To

1.The District Munsif Court,
Tiruchendur, Thoothukudi District.

+1cc to Mr.M.P.Senthil, Advocate in SR No.82902

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NM/PM/SAR IV/27.10.18/2P/3C