



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.37 of 2016 and
C.M.P. (MD) .No.173 of 2016

A.Ramaiah .. Petitioner/Petitioner/Plaintiff

/Vs./

1.Pitchammal
2.Usharani
3.Kalavath
4.S.Kurunthi

.. Respondents/Respondents/Defendants

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.247 of 2015 in O.S.No.456 of 2013 dated 14.09.2015 on the file of the I Additional District Munsif Court, Tirunelveli.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.G.Prabhu Rajadurai

ORDER

O.S.No.456 of 2013 was filed by the revision petitioner herein before the I Additional District Munsif, Tirunelveli, seeking recovery of possession. In the said suit, I.A.No.247 of 2015 was filed for marking an agreement, dated 15.06.1976 said to have been entered between the revision petitioner and one Santhosamuthu the mother of the respondents. The Court below dismissed the said I.A. by order dated 14.09.2015. Questioning the same, this Civil Revision Petition has been filed.

2.This Court expressed the view that even if the Civil Revision Petition is allowed, the revision petitioner may not be able to get relief, in view of the manner in which the suit has been framed. Therefore, the learned counsel appearing for the revision petitioner requested that the suit itself can be allowed to be withdrawn with liberty to file a fresh suit on the same cause of action. The request is reasonable. Therefore, even while dismissing the Civil Revision Petition, this Court grants liberty to the petitioner herein to file a petition under Order 23 Rule 1 of Civil Procedure Code before the Court below for withdrawing the said suit with liberty to file a fresh suit on the same cause of action. Such an application shall be filed within a period of two weeks from the date of receipt a copy of this order. On such application being filed, the Court below shall allow the same.



3. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

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Sub Assistant Registrar (CS-II)

To

1. The I Additional District Munsif,
Tirunelveli.

2. The Section Officer,
V.R. Section, Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1CC TO MR. H. ARUMUGAM, ADVOCATE IN SR.NO.81059.

+1CC TO MR. G. PRABHU RAJADURAI, ADVOCATE IN SR.NO.80899.

TM

DS PM SAR-2 09.10.2018 2P/6C

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