



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) No.682 of 2016

and

C.M.P. (MD) No.3211 of 2016

S.Arputham

...Petitioner / Petitioner / Plaintiff
-vs-

D.Arulselvi

...Respondent / Respondents/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order dated 16.02.2016 passed in I.A.No.40 of 2016 in O.S.No.14 of 2014 on the file of the District Munsif cum Judicial Magistrate Court, Ilayankudi, Sivagangai District.

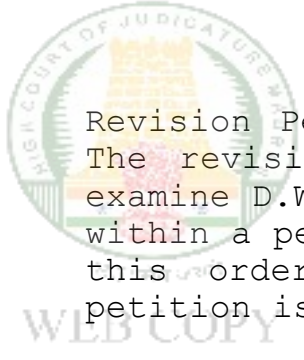
For Petitioner : Mr.B.Prahalad Ravi
For Respondent : Mr.K.Vinayagan

ORDER

The plaintiff in O.S.No.14 of 2014 on the file of the District Munsif cum Judicial Magistrate Court, Ilayankudi, Sivagangai District is the revision petitioner herein. It is a suit for partition. After the plaintiff side was over, the defendant let in evidence on 18.01.2016. Though D.W.1 was examined, the plaintiff could not be present and therefore, cross examination of D.W.1 could not take place. As a result, the defendant's side got closed. Hence, the revision petitioner filed I.A.No.40 of 2016 for re-opening the case. The same was dismissed by order dated 16.02.2016. The correctness of the said order is questioned in this Civil Revision Petition.

2. Heard the learned counsel on either side.

3. D.W.1 could not be cross examined only because the plaintiff was absent on the said date. It is seen that the plaintiff is a senior citizen and he is residing at Chennai. The suit is conducted at Sivagangai. The reasons are quite acceptable. It is also seen that the learned counsel for the respondent herein entered his no objection for allowing this application filed by the revision petitioner herein. This Court has to see that substantial justice is rendered to the parties. Hence, the order impugned in this Civil



Revision Petition is set aside and I.A.No.140 of 2016 is allowed. The revision petitioner is given one more opportunity to cross examine D.W.1. The District Munsif shall dispose of the said suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar (CS-I)

To:

1.The District Munsif cum Judicial Magistrate,
Ilayankudi, Sivagangai District

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

+1cc to Mr.B.Prahalad Ravi, Advocate, SR.No. 81268

C.R.P. (PD) (MD) No.682 of 2016
29.08.2018

ta
KK/SKN/SAR-1/24.09.2018/2P-5C