



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) No.750 of 2016
and
C.M.P. (MD) No.3658 of 2016

1.A.Fathima Beevi
2.Sheik Dawood
3.Shajahan
Plaintiffs

...Petitioners / Petitioners/

-vs-

1.Thangaprakasam
2.Vellaiammal
3.M.Marimuthu
4.Chinnamani

...Respondents / Respondents /
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 15.07.2015 passed in I.A.No.49 of 2015 in O.S.No.142 of 2011 on the file of the District Munsif Court, Pudukkottai by allowing this revision petition.

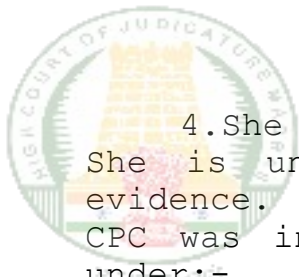
For Petitioner : Mr.K.N.Govardhanan
For R2 to R4 : No Appearance

ORDER

The plaintiffs in O.S.No.142 of 2011 on the file of the District Munsif Court Court, Pudukottai are the revision petitioners herein. I.A.No.49 of 2015 was filed for appointing an Advocate Commissioner for examination of the first plaintiff in her residence. The said application was dismissed by order dated 15.07.2015. The correctness of the said order is questioned in this Civil Revision Petition.

2.Heard the learned counsel for the petitioner. None appears for the respondent.

3.The learned counsel for the revision petitioner submits that the first petitioner is a 77 years old Muslim lady. She is a
pardanashin women.



4. She is also said to be suffering from age related ailments. She is unable to physically come to the Court to tender her evidence. Only to deal with such situations, Order XXVI Rule 4-A CPC was incorporated. Order XXVI Rule 4 -A of CPC reads as under:-

“[4-A. Commission for examination of any person resident within the local limits of the jurisdiction of the Court.- Notwithstanding anything contained in these rules, any court may, in the interest of justice or for the expeditious disposal of the case or for any other reason, issue commission in any suit for the examination, on interrogatories or otherwise, of any person resident within the local limits of the jurisdiction, and the evidence so recorded shall be read in evidence.]”

5. Therefore, no exception could have been taken to the aforesaid request of the first plaintiff. Hence, the order impugned in this Civil Revision Petition is set aside and this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-I)

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To:

The District Munsif Court, Pudukkottai.

+1cc to Mr.D.Ramesh Kumar, Advocate in SR No.81037

C.R.P. (PD) (MD) No.750 of 2016

NM/PM/SAR I/25.10.18/2P/3C