



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2018

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

WEB COPY

**CRP.(MD)Nos.2447 to 2449 of 2011
and M.P.(MD)No.1 of 2011 in CRP(MD).No.2447/2011**

1.Dhanam
2.Arunachalam
3.Ramesh,
4.Lakshmi Raj,
5.Shanthi

... Petitioners/Petitioners 2 to 6
/Defendants 2 to 6(in all CRPs)

Vs.

Krishnamani

... Respondent/Respondent
/Plaintiff (in all CRPs)

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal orders dated 13.10.2011 passed in I.A.Nos.708, 709 and 820 of 2011 in O.S.No.288 of 2005 on the file of District Munsif Court, Manapparai.

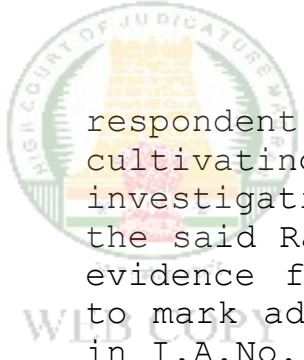
For Petitioners : Mr. M.Saravanan
(in all CRPs)
For Respondent : Mr.B.Prahalad Ravi
(in all CRPs)

C O M M O N O R D E R

These Civil Revision Petitions have been preferred by the petitioners, who are defendants 2 to 6 against the fair and decreetal orders passed in I.A.Nos.708, 709 and 820 of 2011 in O.S.No.288 of 2005, on the file of District Munsif Court, Manapparai

2. The brief facts of the case are as follows:

2.i) The suit in O.S.No.288 of 2005 was filed by one Krishnamani, who is the respondent herein, for permanent injunction against the deceased Ramasamy. The said Ramasamy filed a written statement contending that he was a cultivating tenant and he already filed a suit in O.S.No.171 of 2005 against the respondent, namely, Krishnamani and one Kannan @ Kannusamy, who was the tenant in the suit property. During the pendency of the suit, the said Ramasamy, who is the husband of the first petitioner and the father of the petitioners 2 to 5, was murdered and a criminal case was registered under Section 302 I.P.C. The



respondent contended that the said Ramasamy was not the cultivating tenant in respect of the suit property whereas, during investigation in the criminal case, the respondent admitted that the said Ramasamy was a cultivating tenant and the same is a valid evidence for the petitioners and therefore, the petitioners want to mark additional documents and therefore, they filed a petition in I.A.No. 708 of 2011 under Section 151 C.P.C and the court below has dismissed the said petition. Against which the petitioner has filed C.R.P.(MD) No.2447 of 2011.

2.ii) In the suit in O.S.No. 288 of 2005, another Interlocutory Application in I.A.No.709 of 2011 was filed to re-call the evidence of D.W-1 for filing additional documents and examining further evidence on the side of the defendants. The Court below has dismissed the said application and aggrieved over the same, the petitioners have filed C.R.P.(MD) No.2448 of 2011 before this Court.

2.iii) Further, I.A.No.820 of 2011 was filed to re-open the case for marking the certified copy of the deposition of the witness in S.C.No.155 of 2008. The said application was also dismissed by the court below. Against which, C.R.P.(MD)No.2449 of 2011 was filed before this Court.

3. The learned counsel for the petitioners submitted that when the matter was posted for arguments, the abovesaid Interlocutory Applications were filed by the Revision Petitioners. The respondent has filed a counter stating that already the witness by name Kannan was examined and sufficient opportunity was given for cross-examination and there is no need to re-call him. After assessing the documents and considering the arguments advanced on either side, the trial court has dismissed the applications by stating that the document, which is required to be marked, is the statement given by the witness during the investigation in the criminal case, which was registered for the murder of one Ramasamy and therefore, the statement of witness in the investigation in the criminal case cannot be marked as a document before the Civil Court.

4. During pendency of these Civil Revision Petitions, the trial court has disposed of the suit in O.S.No.288 of 2005 on 03.11.2017. Therefore, the learned counsel for the petitioners has filed a memo stating that during the pendency of the present civil revision petitions the trial court has disposed of the suit and liberty may be given to the petitioners to file applications before the appellate court to receive the documents.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent and perused the materials available on record.



6. On perusal of records, it is seen that this Court has granted an order of interim stay of the proceedings of the trial court, on 03.11.2017. Now on seeing the memo filed by the learned counsel for the petitioners it is made clear that the trial court has disposed of the suit on the same day i.e 3.11.2017. Therefore, nothing survives in the Civil Revision Petition for adjudication. Recording the memo dated 03.01.2018, these Civil Revision Petitions are closed. No costs. Consequently, connected M.P.(MD) No. 1 of 2011 is also closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To:

The District Munsif Court, Manapparai.

+ 1 cc TO Mr.N.C.Ashok kumar , Advocate in SR No. 40151

CM

AE/KKR/SAR2/19.02.2018/3P/3C

**CRP. (MD) Nos. 2447 to 2449 of 2011
and M.P. (MD) No. 1 of 2011
03.01.2018**