

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRP PD No.145 of 2012 and
M.P.No.1 of 2012

1. Santhanam (deceased)
2. Purushothaman
3. Kothandaraman
4. Prameela
5. Mogana
6. Saritha
7. Parthasarathy
8. Sivaprakash

Petitioners 4 to 8 brought on record as LR's of the deceased first petitioner vide order dated 5.12.2017 in CMP No.17070 to 17072 of 2017 in CRP No.145 of 2012.

Vs.

... Petitioners

1. Thulasi
2. Vasu @ Vasudevan

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 09.04.2008 passed in I.A.No.102 of 2007 in A.S.NO.2 of 2005 by the Subordinate Judge, Ponneri.

For Revision Petitioners : Mr.N.R.Anantha Ramakrishnan

For Respondents : Mr.P.V.Muralidharan
for M/s Sampathkumar
and Associates

ORDER

This revision petition has been filed against the order of the first appellate court in allowing application filed under Order 41 Rule 27 of the Code of Civil Procedure for reception of additional documents.

2. The revision petitioners are the respondents in the first appeal and the plaintiffs in the original suit. The trial court heard the submission of the counsels and independently passed an order.

3. The learned counsel appearing for the revision petitioners as well as the respondents fairly conceded that though in general rule, in the appeal, the application for reception of documents should be argued along with appeal, the appellate court independently decided this application, which is not according to law. However, since that application has been allowed, the parties may be given an opportunity to adduce evidence and such additional evidence may be

taken up by the appellate court itself, in order to avoid further delay.

4. In view of such submission, I am of the view that the question of going to the merit of the case does not arise at all, since the trial court has already allowed the application. Hence, the first appellate court is directed to give an opportunity to the parties to adduce evidence on the basis of additional documents filed, and record the evidence, and decide the appeal on merits independently, without influencing any of the observations contained in I.A.No.102 of 2007 in A.S.No.2 of 2005, within three months, from the date of receipt of a copy of this order.

5. With the above observations, this civil revision petition is disposed of. No costs. The ~~connected~~ civil miscellaneous petition is closed.

12.03.2019

Note: Issue Order copy on 15.03.2018
mst

Index : yes/no
Internet : yes/no
Speaking order/non-speaking order

N.SATHISH KUMAR. J.,
mst

To

1. The Subordinate Judge, Ponneri.



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M.P.No.1 of 2012**

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