

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.No.4205 of 2013

and M.P.No.1 of 2013

1.Vijaya
2.Sumathi

... Petitioners/Defendants 3 & 4
Vs.

1.Kuppan
2.Ellammal
3.Jayashree

.... Respondents/Plaintiff/
Defendants 1 & 2

Petition filed under Article 227 of the Constitution of India against the fair and final order dated 08.07.2013 made in I.A.No.297 of 2013 in O.S.No.59 of 2008 on the file of the Additional District Munsif Court, Chengam.

For Petitioners : Mr.PA.Kadirvel
For Respondents : Mr.R.Pradeep (R2)
Mr.P.Mani (R1)
R3 - no appearance

O R D E R

It is brought to the notice of this Court that challenging the order passed in I.A.No.297 of 2013 in O.S.No.59 of 2008 on the file of the District Munsif Court, Chengam, the defendants 3 & 4 have filed the above Civil Revision Petition.

2.The application in I.A.No.297 of 2013 was filed by the defendants 3 & 4 to produce additional documents before the trial Court. The trial Court dismissed the petition filed by the defendants, against which the defendants 3 & 4 have filed the Civil Revision Petition.

3.Now, it is brought to the notice of this Court that during the pendency of the Civil Revision Petition, the trial Court had passed a preliminary decree on 18.04.2017. Aggrieved over the same, the defendants 3 & 4 have filed an appeal in A.S.No.33 of 2007 on the file of the Principal Sub Court, Tiruvannamalai and the same is pending.

4.Even if the Civil Revision Petition is allowed in favour of the defendants 3 &, they cannot now produce the documents before the trial Court for the reason that the trial Court had

already passed the preliminary decree on 18.04.2017, which is under challenge in the First Appeal.

5.In these circumstances, the learned counsel appearing for the petitioners seeks the permission of this Court to withdraw the Civil Revision Petition with liberty to file an application under Order 41 Rule 27 of the Code of Civil Procedure in A.S.No.33 of 2017 on the file of the Principal Sub Court, Tiruvannamali. The learned counsel also made an endorsement to that effect.

6.In view of the same, the Civil Revision Petition is dismissed as withdrawn with liberty to file an application under Order 41 Rule 27 of the Code of Civil Procedure before the Principal Sub Court, Tiruvannamalai in A.S.No.33 of 2017. If such an application is filed by the defendants 3 & 4, the Principal Sub Judge, Tiruvannamalai is directed to decide the same on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

va

To

1.The Additional District Munsif Court, Chengam.

2.The Principal Sub Judge, Tiruvannamalai.

+3cc to Mr.N.P.Vijayakumar, Advocate, SR.No.96935.

+1cc to Mr.P.A.Kadirvel, Advocate, SR.No.96855.

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NMI (CO)

CSR(17/12/2019)

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