



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.R.P. (NPD) (MD)Nos.84 and 85 of 2012
and M.P. (MD) Nos.1 and 1 of 2012

C.R.P. (MD)No.84 of 2012:

1.G.Mangathayammal
2.S.Latcham
3.L.Vairamani : Petitioners/Respondents 2 to 4/
Respondents 2 to 4

Vs.

Virumandi (Died)
1.Saroja
2.Jeyaseelan
3.Saravanan
4.Rajeswari : Respondent 1 to 4/Petitioners/
Appellants

5.T.Gurusamy : Respondent 5/1st Respondent/
1st Respondent

6.Periasamy @ Periasamy Poosari
7.P.Virumandi
8.P.Palraj
9.S.Petchiammal
10.M.Kasiammal
11.M.Parameswari : Respondents 6 to 11/Respondents
5 to 10/Respondents 5 to 10

PRAYER: Civil Revision Petition under Section 115 of CPC, against the Fair and decretal order dated 07.12.2011 made in I.A.No.96 of 2011 in A.S.No.167 of 2007 on the file of the III Additional Subordinate Judge, Madurai (Usilampatti Camp Court).

For Petitioner : Mr.T.Sivanathan
For Respondents : No appearance

C.R.P. (MD)No.85 of 2012:

1.G.Mangathayammal
2.S.Latcham
3.L.Vairamani : Petitioners/Respondents 2 to 4/
Respondents 2 to 4



Vs.

1.Virumandi

: 1st Respondent/Petitioner/Appellant

2.T.Gurusamy

: 2nd Respondent/1st Respondent/
1st Respondent

3.Periasamy @ Periasamy Poosari

4.P.Virumandi

5.P.Palraj

6.S.Petchiammal

7.M.Kasiammal

8.M.Parameswari

: Respondents 3 to 8/Respondents
5 to 10/Respondents 5 to 10

PRAYER: Civil Revision Petition under Section 115 of CPC, against the Fair and decreetal order dated 03.11.2011 made in I.A.No.68 of 2011 in A.S.No.167 of 2007 on the file of the III Additional Subordinate Judge, Madurai (Usilampatti Camp Court).

For Petitioner : Mr.T.Sivanathan
For Respondents : No appearance

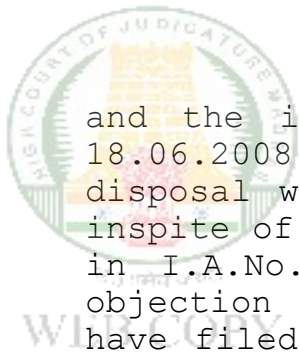
COMMON ORDER

These Civil Revision Petitions have been directed against the impugned fair and decreetal orders dated 07.12.2011 and 03.11.2011 made in I.A.No.96 of 2011 and I.A.No.68 of 2011 respectively in A.S.No.167 of 2007 on the file of the III Additional Subordinate Judge, Madurai (Usilampatti Camp Court).

2.Since these Civil Revision Petitions arise out of the orders passed in two interlocutory applications filed in the same appeal suit, they are taken up together for disposal.

3.Learned counsel appearing for the petitioners assailed the fair and decreetal orders dated 07.12.2011 and 03.11.2011 made in I.A.No.96 of 2011 and I.A.No.68 of 2011 respectively in A.S.No.167 of 2007 on the ground that there is no specific reason for allowing the interlocutory applications to receive the additional documents. He would further submit that I.A.No.68 of 2011 has been filed in the name of a dead person.

4.Though the first appellate Court has allowed the interlocutory applications to receive the additional documents merely stating that "Counter filed. Interest of Justice petition allowed." and "Counter not filed. Petition allowed.", this Court is not inclined to accept the arguments of the learned counsel appearing for the petitioners to interfere with the impugned orders for the reason that the appeal suit is pending from the year 2007



and the interlocutory applications were filed on 28.11.2011 and 18.06.2008 respectively and notice of hearing and counter and disposal was ordered on 28.11.2011 and 20.10.2011 respectively and in spite of granting sufficient time, counter affidavit was not filed in I.A.No.68 of 2011, which shows that the petitioners have no objection for allowing the said petition. However, the petitioners have filed their counter affidavit in I.A.No.96 of 2011. No doubt, the first appellate Court ought to have mentioned some reasons for allowing the petitions. However, considering the fact that the sale deed sought to be received in I.A.No.68 of 2011 is prior to the filing of the appeal and the documents sought to be received in I.A.No.96 of 2011 are also old documents issued by the Government and the Court, this Court is of the view that the learned first appellate Court is right in allowing the applications. Further, the argument of the learned counsel for the petitioners that I.A.No.68 of 2011 has been filed in the name of a dead person has not been substantiated by producing death certificate or any other document.

5.In the result, the Civil Revision Petitions are dismissed. Consequently connected Miscellaneous Petition are also dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

sj

To

The III Additional Subordinate Judge,
Madurai (Usilampatti Camp Court).

C.R.P. (NPD) (MD) Nos.84 and 85 of 2012
18.12.2019

JMN(04.02.2020) 3P : 2C