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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) .Nos.528 and 529 of 2019(PD)

and

C.M.P. (MD) .No.2620 of 2019

Tmt.Premalatha ... Petitioner/1st Respondent/
1st Defendant in both petitions
Vs.

1.Tmt.A.Tamilselvi ... 1stRespondent/Petitioner/Plaintiff
in both petitions

2.Thiru.T.Kumar ... 2nd Respondent/2nd Respondent/
2nd Defendant in both petitions

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 23.01.2019 in I.A.Nos.899 and 900 of 2018 in O.S.No.318 of 2013 on the file of the District Munsif Court, Palani.

For Petitioner (in both Petitions) : Mr.M.Ponniah

For 1st Respondent (in both petitions): Mr.D.Venkatesh

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioner, who is the first defendant in the suit in O.S.No.318 of 2013.

2.The first respondent herein, who is the plaintiff has filed two I.As before the trial Court. I.A.No.899 of 2018 has been filed under Section 151 of the Code of Civil Procedure, to reopen the evidence on the side of the plaintiff. I.A.No.900 of 2018 has been filed under Order 18 Rule 17 of the Code of Civil Procedure, to recall the evidence on her side.

3.In the said I.As, the plaintiff has contended that the suit was posted for argument on 04.12.2018. The birth certificate of the child of the first defendant and the order passed in H.M.O.P.No.36 of 2007 pending between the first defendant and her first husband, necessary documents for the purpose of proving the plaintiff's case. Hence, the plaintiff has sought to recall herself for marking the said documents.



4. In the I.As., the first respondent, who is none other than the sister of the plaintiff has contended that the documents alleged to have been marked by the plaintiff are in no way connected to the present suit and it will not be helpful to the case of the plaintiff and only with an ulterior motive and to drag on the proceedings, the said I.As have been filed by the plaintiff. She further contended that the parties on either side were examined in full and the said documents were not marked at the earliest point of time and neither parties to the proceedings nor related to the said documents. Hence, there is no purpose in filing the said I.As.

5. The trial Court has observed the contention raised by both sides and gave a finding that after the marriage of the first defendant, without taking care of her parents, left the family and also leaving her husband and living with the second defendant, whereas, the plaintiff is only taking care of her parents and hence, the property was executed by the plaintiff's mother viz., Ponnammal in favour of the plaintiff and now, the same is in possession and enjoyment of the plaintiff. Therefore, the first defendant has no right over the suit property. However, she claimed 1/3rd share in the suit property. Further, on 09.04.2010 the second defendant has executed a sale deed and the same is not valid under law. It is further observed that the marriage between the first defendant and her husband was also dissolved by the decree passed in H.M.O.P.No.36 of 2007 and in order to prove that the children were born to the first defendant and the second defendant and to prove the fact that the first defendant, who left the family is also not living with her husband and now, she is living with the second defendant, the documents sought to be marked by the petitioner/plaintiff are very much essential. The trial Court after considering the relevancy of those documents to prove the case of the plaintiff, has allowed the said I.As.

6. The learned counsel appearing for the revision petitioner submitted that these documents are not connected to the relevancy for the claim or relief sought by the plaintiff and she is neither a party to the document nor it is a relevant document to prove her case.

7. The relief sought by the plaintiff and the purpose of filing the said documents was already considered by the trial Court and a reasoned order has been passed and therefore, the same cannot be set aside. The said purpose of filing of those documents may have some relevancy and it is for the trial Court to deal with the same. Hence, this Court has no intention to interfere with the order of the trial Court.

8. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed. However, since the suit is of the year 2013, the trial Court



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3

is directed to proceed with the case and dispose of the same within a period of two months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Munsif,
Palani.

2.The Record Keeper, VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1 CC to M/s.M.PONNIAH, Advocate in SR-54834

+2 CC to M/s.D.VENKATESH, Advocate in SR-55461,55462

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