



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (MD) .No.1538 of 2019

and

C.M.P. (MD) .No.8074 of 2019

WEB COPY

V.S.Vijayakumar

... Petitioner/Petitioner/Defendant

Vs.

1.G.Muruganandham

2.R.Prabakaran

... Respondents/Respondents/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 30.07.2019 made in I.A.No.179 of 2019 in O.S.No.102 of 2012 on the file of the learned Additional Sub Court, Pudukkottai.

For Petitioner : Mr.M.Sathiamoorthy

For Respondents : Mr.H.Lakshmishankar

ORDER

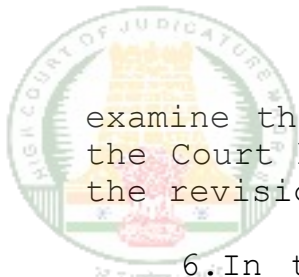
Heard Mr.S.Sathiamoorthy, learned counsel appearing for the petitioner and Mr.H.Lakshmi Shankar, learned counsel appearing for the respondents.

2.This Civil Revision Petition has been filed challenging the order dated 30.07.2019 passed in I.A.No.179 of 2019 in O.S.No.102 of 2012 by the learned Additional Sub Court, Pudukkottai.

3.The revision petitioner is the defendant in the Suit in O.S.No.102 of 2019 has filed I.A.No.179 of 2019 for examining the contesting witness of the sale deed, dated 24.07.1985.

4.The learned counsel appearing for the revision petitioner contended that after hearing both parties, the Court below had erred in dismissing the said I.A stating that there is no need for examining the witness of the sale deed, which is not relevant for the present case. Further, the learned counsel contended that it is necessary to examine the contesting witness of the sale deed, as the sale deed is relevant for the suit filed by the respondents/plaintiffs for bare injunction, which assists the case of the revision petitioner.

5.The learned counsel for the respondents/plaintiffs fairly submitted that in the event, the revision petitioner/defendant is proposed to examine any of the witnesses, the legal rights to



examine the witness is to substantiate his case and at this stage, the Court below ought not to have rejected the application filed by the revision petitioner.

6.In that view of the matter, it is not a statutory right on the part of the revision petitioner/defendant to examine the attesting witness to put-forth his case and without examining the witness, the Court below cannot come to a conclusion that the sale deed is not relevant to the suit or not. In the present case, it can be decided only after allowing the respective parties into the cross-examination.

7.That being the case, taking note of the dismissal of the application filed by the revision petitioner for examining the witness, by the Court below in non application of mind and against the settled principles of law by this Court as well as the Apex Court in number of decisions.

8.Accordingly, the order passed by the Court below is set aside and the Civil Revision Petition is allowed. No Costs. Since the suit is of the year 2012, this Court directs the learned Additional Sub-Judge, Pudukkottai, to dispose of the said suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional Sub-Judge,
Pudukkottai.

2.The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.(2 COIES)

+1 CC to Mr.H.LAKSHMI SHANKAR, Advocate (SR-94131[F] dated
24/10/2019)

+1 CC to Mr.M.SATHIAMOORTHY, Advocate (SR-94154[F] dated
24/10/2019)

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