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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P (PD) (MD) No.661 of 2013

and

M.P. (MD) No.1 of 2013

Regina Mary : Petitioner/Respondent/Plaintiff

.. Vs ..

Sujatha : Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 12.10.2011 made in I.A.No.847 of 2011 in O.S.No.126 of 2008 on the file of the Additional District Munsif Court, Karur and allow the above Civil Revision Petition.

For Petitioner : Mr.R.Devaraj
For respondent : Mr.E.K.Kumaresan

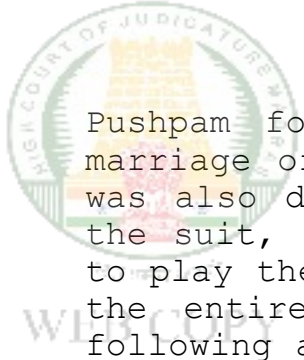
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ORDER

This Civil Revision Petition is filed by the plaintiff in the suit in O.S.No.126 of 2008 on the file of the Additional District Munsif Court, Karur.

2.The revision petitioner filed a suit in O.S.No.126 of 2008 on the file of the District Munsif Court, Karur, for declaration declaring that the Legal Heirship Certificate issued by the sixth defendant to the defendants 1 to 3 under Ni.Mu.No.5258/2006, dated 16.10.2006 is null and void and consequential relief of mandatory injunction, directing the sixth defendant to cancel Legal Heirship Certificate issued by the sixth defendant under Ni.Mu.No.5258/2006, dated 16.10.2006 and declaration, declaring that the plaintiff and defendants 4 and 5 are the legal heirs of the deceased Lilly Pushpam and consequential relief of mandatory injunction, directing the sixth defendant to issue Legal Heirship Certificate to that effect and for costs.

3.The revision petitioner being the sister of one Lilly Pushpam is entitled to succeed to the property as the sole legal heir of the deceased Lilly Pushpam. It is admitted that the said Lilly Pushpam was married to one Mr.Narayanan and had two sons through him, namely Vimalraj and Vimal Prakash. Unfortunately, Lilly Pushpam died along with her husband and children when they went on a pilgrimage to Velankanni by TSUNAMI in 2004. The defendants 1 to 3 are the daughters of Narayanan through his first wife. The first defendant is the eldest daughter of the said Narayanan. It is the specific case of the first defendant in the written statement that Lilly



Pushpam followed Hinduism. The case of the plaintiff that the marriage of Lilly Pushpam and Narayanan was solemnised in a Church was also disputed by the first defendant. During the pendency of the suit, the defendant filed an application in I.A.No.847 of 2011 to play the Marriage CD of the first defendant herself to show that the entire marriage was solemnised by the said Lilly Pushpam following all the Hindu rites and ceremonies. It is further stated that the document will have some relevance to the case pleaded by the first defendant. The learned Judge allowed the application by a cryptic order without much discussion. The first defendant also filed another application in I.A.No.846 of 2011 to recall D.W.1 to mark the document. It is seen from the order in I.A.No.846 of 2011 that the additional District Munsif Court, Karur, has passed an elaborate order allowing the said application. Since reasons are stated in the order passed in I.A.No.846 of 2011, the learned District Munsif without discussing elaborately the issues that were raised by the revision petitioner objecting to the marking of the CD, allowed I.A.No.847 of 2011. Having regard to the factual issues raised by the parties, this Court is of the view that the document relied upon by the respondent is relevant to decide an issue that arise for consideration in the suit. The CD that was relied upon by the defendant may not be a direct evidence and this Court has not seen the information or message that can be read or conveyed by such CD. At this stage, the contention of the defendant with regard to its relevance cannot be ignored. No prejudice is going to be caused to the plaintiff by producing the document which according to the respondent throw some light to advance his defence in the main suit. The question of relevance cannot be decided finally at this stage and therefore, the learned Counsel appearing for the revision petitioner cannot harp much on the issue that the learned Additional District Munsif has not elaborately discussed the points raised. No revision is filed against the order in I.A.No.846 of 2011.

4. Having regard to the facts admitted and the issues that arise for consideration in this case, this Court find no reason to interfere with the order of the lower Court and the Civil Revision Petition is dismissed. However, the learned Counsel appearing for the respondent has raised an objection as to the marking of the document by referring to Section 65 B of Indian Evidence Act. Before marking the document, it is open to the respondent to take appropriate steps so that the admissibility of the document will not be questioned at a later stage. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS)



To

The Additional District Munsif Court,
Karur.

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+1 CC to M/s.R.DEVARAJ, Advocate (SR-47143[F] dated 14/02/2019)

+1 CC to M/s.E.K.KUMARESAN, Advocate (SR-47220[F] dated
14/02/2019)

C.R.P (PD) (MD) No. 661 of 2013
12.02.2019

CS: 29/05/2019/3P/4C