

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).Nos.1141 & 1142 of 2018

and

C.M.P.No.5931 of 2018

1. Geetha

2. Kokila

3. Minor.Heena

.. Petitioners in both Civil Revision Petitions

Vs.

1. Raniammal

2. Hemavathi

3. Sumathi

4. Thiruvani

.. Respondents in both Civil Revision Petitions

Common Prayer: Petitions filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal Order of the learned IV Additional District Judge, Thiruvallur at Ponneri dated 10.01.2018 made in I.A.Nos.170 & 171 of 2017 in O.S.No.13 of 2007 by allowing these Civil Revision Petitions.

For Petitioners : Mr.R.Kapali

For Respondents : Mr.V.L.Aksai Sajin Kumar

**COMMON ORDER**

The defendants in O.S.No.13/2007 have filed the present revisions challenging the dismissal of their applications in I.A.Nos.170 & 171 of 2017 seeking to recall PW1 to enable further cross examination. PW1 was examined in chief and the cross examination was completed on 20.12.2013. Thereafter, the defendants have filed an application to file an additional written statement setting up certain pleas regarding two enactments and the additional written statement was taken on file in the month of October 2017. Thereafter, the defendants came up with the instant applications seeking to recall PW1 for further cross examination.

2. These applications were resisted by the plaintiffs contending that since the pleas raised in the additional written statement are strictly legal further cross examination of P.W.1 is not required. The plaintiffs would further submit that recalling of P.W.1 is with reference to the rights of daughters over the property that are referable to the two amending enactments of the years 1990 & 2005, therefore, there is no need for cross examination of PW1. The learned trial Judge agreed with the defence and

dismissed the applications.

3. Mr.M.R.Kapali learned counsel appearing for the petitioners would contend that once additional pleadings are allowed the defendants get a right to cross examine the witnesses. Therefore, according to him, the Trial Court was not justified in dismissing the applications.

4. Contending contra Mr.Adit Narayanan learned counsel appearing for Mr.Aksai Sajin Kumar would contend that all that has been pleaded in the additional written statement is the effect of the two amending enactments which confer rights on daughters in the coparcenary property. He would also further submit that as per the law laid down in the latest Judgement of the Hon'ble Superme Court *in Vineeta Sharma Vs Rakesh Sharma*, the issue relating to the right of a daughter over coparcenary property has been settled. Therefore, there is no controversy regarding the entitlement of daughters in the property requiring any evidence particularly cross examination. I have considered the rival submissions.

5. No doubt, if there is additional pleadings, further cross-examination can be done by reopening the evidence and recalling the witness. As rightly pointed out by the learned counsel for the respondents that the additional plea that has been raised is with reference to the entitlement of daughters over the coparcenary property, on the basis of the applicability of two enactments. The daughters become co-parceners irrespective of their marital status or the opening of succession, hence, they are entitled for share in the ancestral properties as that of a son. Once that a law is settled, I do not see any need to further cross examination of the plaintiff's witness. I therefore find that the trial Court is right in dismissing the applications. Accordingly, these Civil Revision Petitions fails and the same are dismissed.

6. Considering the fact that the suit is of the year 2007, the trial Court, namely, the 4th Additional District Judge, Ponneri, is directed to dispose of the suit within a period of 4 months from the date of resumption

of the physical hearing in that Court and report to this Court. Consequently,  
connected miscellaneous petition is closed.

**02.12.2020**

kmm

Internet: Yes/No

Index: Yes/No

To

The learned IV Additional District Judge,  
Thiruvallur,  
Ponneri.



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**R.SUBRAMANIAN, J.**

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