

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(PD).No.1855 of 2015

and

M.P.No.1 of 2015

1.Krishnasamy(Deceased)
2.C.K.Loganathan

... Petitioners

Vs.

1.Rathnasamy
2.S.Manoharan
3.Mani @ Soudhamani
4.Saraswathi
5.Selvi
6.Ponnammal
7.Chandaragandhi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in proceedings in I.A.No.120 of 2015 dated 03.03.2015, on the file of the District Munsif Court, Gobichettipalayam.

For Petitioners : Mr.M.Nandhakumar

For Respondents : Mr.R.T.Doraisamy for R1 to R5
R6 and R7 – No appearance

ORDER

This Civil Revision Petition has been filed by the respondent/plaintiff against the order passed in I.A.No.120 of 2015 in O.S.No.363 of 1999 on the file of the District Munsif Court, Gopichettipalayam dated 03.03.2015.

2. The petitioners herein along with his father Krishnasamy had filed a suit in O.S.No.363 of 1999 on the file of the District Munsif Court, Gobichettipalayam, to declare that the suit well water and pump set and S.C.No.153 in S.F.No.621/3 are not meant to irrigate the lands in S.F.No.620 of Elathur Village and also for permanent injunction restraining the defendants 1 to 5 therein from digging underground pipe line in S.F.Nos.621/3 and 621/4B and taking water from the suit well to the lands viz., S.F.No.620 of Elathur Village, Gobichettipalayam Taluk. In the said suit, both the parties adduced evidence and when the same was posted for arguments, the defendants have filed an application in I.A.No.120 of 2015 to reopen their side evidence. The learned District Munsif has allowed the said application by the order dated 03.03.2015.

On a condition that the petitioners therein shall pay a cost of Rs.500/- to the respondents therein. Feeling aggrieved, the second respondent/second plaintiff has filed the present Civil Revision Petition.

3. Heard, Mr.M.Nandhakumar, learned counsel appearing for the petitioner and Mr.R.T.Doraisamy, learned counsel appearing for the respondents 1 to 5.

4. The learned counsel for the petitioner has submitted that at the instance of the defendants, handwriting expert's opinion has been obtained with regard to the signatures of the first plaintiff, who is the father of the petitioner herein made in Ex.A4. He further submitted that the first defendant while examining himself as DW2 has deposed that some interpolations have been made in Ex.A4 and he further submitted that a cursory look of Ex.A4 would show that the first page was written by one person and the second page was written by some other person. That be so, examination of the handwriting expert and marking of his report would not improve the case of the defendants, but without considering the aforesaid facts, the learned District Munsif, has allowed the application which was filed by the defendants to reopen their side

evidence. Hence, he prayed to allow the Civil Revision Petition and set aside the order passed by the District Munsif in I.A.No.120 of 2015.

5. Per contra, the learned counsel for the respondents/defendants has submitted that at the instance of the respondents, handwriting expert's opinion has been received by the trial Court. At the time of examining DW2, a request was made to the trial Court to mark the said report, since an objection was raised that the said document could be marked only through the concerned handwriting expert, the said document was not marked. He further submitted that subsequently, the respondents came to know only at the time of preparing the said document that it was not marked. Hence, immediately they filed a petition to reopen their side evidence. Considering the aforesaid facts, the trial Court has allowed the said petition and in the said order this Court need not interfere. Hence, he prayed to dismiss the Civil Revision Petition.

6. Admittedly, already the trial Court has received the handwriting expert's opinion and that being so, unless the said report is marked, the very purpose of receiving the expert's opinion would get

defeated. Therefore, this Court does not find any irregularity or illegality in the order passed by the learned District Munsif allowing the application to reopen the evidence of the defendants. Hence, this petition is liable to be dismissed.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

16.10.2020

Internet : Yes/No
dna

To

The District Munsif Court, Gobichettipalayam.

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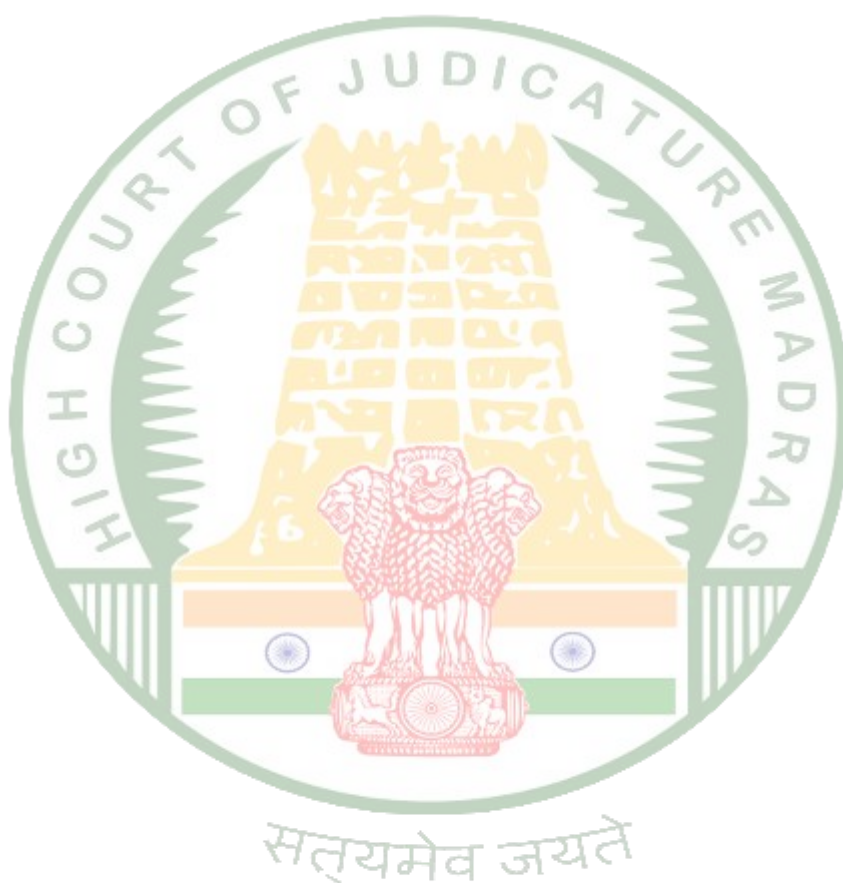
P.RAJAMANICKAM.J.,
dna



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