

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No. 4074 of 2018

and

C.M.P.No. 22512 of 2018

1.Palaniammal
2.Lakshmi
3.Periyanayagi
4.Bagyam

...Petitioners

Vs.

1.Aruchamy
2.Subbannan

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No. 380 of 2015 in A.S.No. 112 of 2013 on the file of the V - Additional District Court, Coimbatore dated 10.08.2018.

For Petitioners : Mr.A.Sundaravadhanan

For Respondents : Mr.R.T.Doraisamy for R1

R2 - No Appearance

O R D E R

The respondents 2 to 5 in A.S.No. 112 of 2013 on the file of the 5th Additional District Court, Coimbatore are on revision.

2. Challenge is to the order of the learned Additional District Judge allowing an application filed under Order 41 Rule 27 of C.P.C., seeking to produce additional evidence in the appeal. The grievance of the petitioner is that, contrary to the established procedure of hearing applications under Order 41 Rule 27 along with the appeal, the learned District Judge has chosen to dispose of the application independently which had resulted in great prejudice to the petitioners.

3. I have heard Mr.A.Sundaravadhanan, learned counsel for the petitioner and Mr.R.T.Doraisamy, learned counsel for the 1st respondent.

4. Despite his best efforts, Mr.R.T.Doraisamy is unable to suport the action of the learned District Judge in hearing application independently. I am also not satisfied with the reasoning assigned by the learned Additional District Judge, Coimbatore for receiving documents that have been sought to be filed without regarding the finding as to whether they are required for the disposal of the appeal or not. It is elementary that the in an application under Order 41 Rule 27 of C.P.C., the applicant has to satisfy the Court that the additional evidence required to effectively and completely to resolve the dispute between the parties. In the absence of such a finding, the order allowing the application cannot be sustained.

5. Hence, the order of the learned Additional District Judge is set aside, I.A.No. 380 of 2015 is remitted back to the Appellate Court namely, the 5th Additional District Judge, Coimbatore to be heard and disposed of along with the appeal. It is made clear that the Additional District Judge shall not be influenced by any of the observations made in this order or the order impugned in the revision. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To:

The V - Additional District Court,
Coimbatore.

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