



WEB COPY

C.R.P.(PD)(MD)No.200 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 06.02.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD)No.200 of 2020

and

CMP (MD)No.1170 of 2020

T.G.Padma

... Petitioner/Petitioner/
2nd Defendant

Vs.

1.Mrs.Gayathri

...1st Respondent/1st Respondent/
Plaintiff

2.Meera

3.T.K.Ramesh Babu

4.Sri Sowdambika Fabrics
Represented through
Lakshmanan

5.Saraswathu Garments
represented through
Thanram

6.Aravind & Co
represented through
Ramakrishnan

7.K.R.Ram Mohan

8.K.R.Kumaresan

9.K.R.Sachithanandam

10.K.R.Ramadevi

... Respondents/Respondents/Defendants
1 and 3-6

11.N.V.Geethanath

12.A.S.Sivakumar

13.A.S.Shanmugarajan

14.T.K.Shridevi

15.T.S.Shrilakshmi

... Respondents 7 to 15/Respondents/
Defendants 7 to 15

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to allow this Revision Petition by setting aside the fair and decretal order dated 27.06.2019 passed by the learned Principal Sub Judge, Madurai in I.A.No.174 of 2019 in O.S.No.476 of 2012.

For Petitioner

: Mr.V.S.Karthi for
M/s.VS.Karthi Associates

For R1

: Mr.P.Gunaseelan

ORDER

This petition has been filed against the order in I.A.No.174 of 2019 in O.S.No.476 of 2012 passed by the learned Principal Sub Judge, Madurai, dated 27.06.2019.

<https://hcservices.ecourts.gov.in/hcservices/>



2. Petitioner is the second defendant, the first respondent is the plaintiff, the defendants 2 to 6 are the defendants 1 & 3 to 7 and the respondent 7 to 15 are the defendants 8 to 15 in the suit.

3. The respondent has filed a suit for a prayer of partition and for separate possession. In that suit, the second defendant/revision petitioner herein filed a petition in I.A.No.174 of 2019 to re-call D.W.1 and filed another petition to receive additional documents. The Trial Court has dismissed all these petitions. Against which, the revision petitioner preferred this revision.

4. The brief substance of the petition in I.A.No.174 of 2019 is as follows:-

The petitioner has to prove that the 1st attesting witnesses could not be reached, even after sufficient efforts were taken by the petitioner and that the 2nd attesting witness was dead and the steps were taken by examining his sons and both have adduced evidence. The petitioner has to take proclamation batta and its return endorsements has to be marked as additional evidence. After cross examining the petitioner, the lower Court has decreed the suit in O.S.No.293 of 2012 infavour of the petitioner on 26.02.2019 and that the decree and the deposition are to be marked in this suit and that decree was passed only after recording of the evidence of the petitioner. Hence, the petitioner has to be re-called for adducing additional evidence .

5. The brief substance of the counter in I.A.No.174 of 2019 is as follows:-

This re-call petition is the third petition for re-calling the petitioner herein. A copy of the proof affidavit was served on the respondent's counsel on 08.04.2019. The Court summons form part of the record and certified copy of the court summons cannot be received as evidence. The petitioner is going on re-calling herself and filed re-call petition for the third time.

6. On the side of the petitioner, it is stated that the petitioner filed certain documents, which were subsequent to the suit and subsequent to the recording of his evidence. The respondents counsel fairly admitted that except, there is no other objection on the side of the respondents.

7. In the above circumstances, an opportunity has to be given to the petitioner to put forth his case. At the same time, a direction to the Court has to be given to dispose of the case within a time frame. Therefore, this Court directed the learned Principal Sub Judge, Madurai, to dispose of the case in O.S.No.476 of 2012 within a period of four months from the date of receipt of a copy of the order.



8. With the above observation, this Civil Revision Petition is allowed and the order passed in I.A.No.174 of 2019 in O.S.No.476 of 2012 on the file of the learned Principal Sub Judge, Madurai, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss

To

1. The Principal Sub Judge,
Madurai.

2. The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.P.GUNASEELAN, Advocate (SR-4982[F] dated 06/02/2020)

**C.R.P. (PD) (MD) No.200 of 2020
and**

**CMP (MD) No.1170 of 2020
06.02.2020**

VB(20.03.2020) 3P 5C