



WEB COPY

C.R.P.(MD)No.439 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2020

CORAM

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

C.R.P. (MD)No.439 of 2020

and

C.M.P. (MD)No.2611 of 2020

Palanimanickam : Petitioner/1st Petitioner/3rd Defendant

.. Vs ..

1.Parvathi

2.Balaji

: Respondents 1 and 2/Respondents 1 & 2/
Plaintiffs

Kunjammal (Died)

3.M.Palanisamy

: 3rd Respondent/3rd Petitioner/
5th Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed by the learned Subordinate Judge, Lalgudi in I.A.No.3 of 2019 in O.S.No.14 of 2018, dated 01.02.2020 by allowing this Civil Revision Petition.

For Petitioner : Mr.S.K.Mani

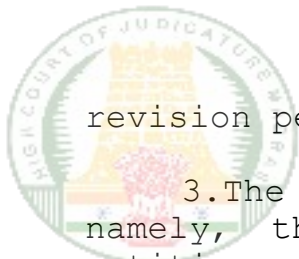
For Respondent 1 : Mr.A.Vijayaraman
for M/s.T.Banumathy

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ORDER

This Civil Revision Petition is filed by the third defendant in the suit in O.S.No.14 of 2018 on the file of the Sub Court, Lalgudi, against the order in I.A.No.3 of 2019.

2.The respondents 1 and 2 in the present Civil Revision Petition, as plaintiffs, filed the suit in O.S.No.14 of 2018 on the file of the Sub Court, Lalgudi, for permanent injunction as against the defendants and for costs. During the pendency of suit, the revision petitioner, namely, the third defendant wanted to examine himself as witness on his side. Hence, he filed I.A.No.3 of 2019 to examine himself as D.W.1 and to reopen the case for that purpose. Even though no witness was examined on behalf of the defendants, the petition was filed by the third defendant to reopen the case for recalling D.W.1. Since no one was examined on the side of the defendants, the learned Counsel appearing for the petitioner submitted that the petition is only to examine the defendants' side witness and that the lower Court has closed the avenue of examining any one as a witness to support the defendants' case. The learned Counsel appearing for the petitioner submitted that the lower Court failed to see the substantial injustice that is caused to the



revision petitioner by dismissing the petition.

3.The learned Counsel appearing for the contesting respondents, namely, the plaintiffs has no serious objection to allow the petition to reopen the case for examining the third defendant/revision petitioner as D.W.1.

4.This Court has carefully considered the submissions of the learned Counsel appearing on either side. The learned Counsel appearing for the petitioner has convinced this Court that an opportunity to examine the petitioner as witness on his behalf is essential and required in the interest of justice. As a result, this Civil Revision Petition is allowed and the order of the lower Court in I.A.No.3 of 2019 in O.S.No.14 of 2018 is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

5.The learned Counsel appearing for the respondents/plaintiffs submitted that this Court may give a direction to dispose of the suit in O.S.No.14 of 2018 within a time frame stipulated by this Court. The suit was originally instituted in 2008 before the Sub Court, Tiruchirappalli and the same was transferred to Subordinate Judge, Lalgudi, only in 2018. Learned Counsel appearing for the petitioner has no objection for issuing such direction. Accordingly, the learned Subordinate Judge, Lalgudi, is directed to expedite the trial in O.S.No.14 of 2018 and dispose of the same within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM
To
The Judge, Sub Court,
Lalgudi, Tiruchirappalli District.

+1 CC to Mr.S.K. MANI, Advocate (SR-15165[F] dated 27/08/2020)

C.R.P. (MD) No. 439 of 2020

25.08.2020

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