



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 30.11.2020**

**CORAM:**

**THE HONOURABLE MR. JUSTICE N.SESHASAYEE**

**C.R.P. (PD) (MD)No.455 of 2020**

**& CMP(MD) .No.2783 of 2020**

WEB COPY

Annalakshmi

... Petitioner/Respondent/Respondent  
Vs.

Yemu Konar

... Respondent/Petitioner/Appellant

**PRAYER:** The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 03.02.2020 passed in I.A. No.43 of 2018 in A.S.No.119 of 2017 on the file of the Additional Sub Court, Tenkasi.

For Petitioner : Mr.A.Sankara Ramasubramanian

For Respondent : Mr.P.Murugesan

**ORDER**

This Civil Revision Petition is filed challenging the order of the Additional Sub Judge, Tenkasi allowing an application in I.A.No43 of 2018 filed in A.S.No.119 of 2017, for receiving of additional evidence under Order 41 Rule 27 C.P.C

2.The respondent herein is the plaintiff in O.S. No.369 of 2016, which he laid for declaration of his title and for consequential injunction. The suit came to be dismissed, and the plaintiff preferred A.S.No.119 of 2017. In that appeal, the respondent/plaintiff had filed I.A.No.43 of 2018 to receive certain documents which came to be allowed.

3. The learned counsel for the revision petitioner/respondent in A.S.No. 119 of 2017 argued that the respondent herein/appellant has not satisfied any of the requirements contemplated in Order 41 Rule 27 C.P.C. Further the order itself is non-speaking order and it is not evident that on which grounds the petition was allowed.

4. Heard the learned counsel for the respondent/appellant in A.S.No. 119 of 2017.

5. The learned counsel for the respondent/appellant in A.S.No.119 of 2017 argued that the revision petitioner did not contest the said suit yet the suit came to be dismissed. Therefore, he had no opportunity for producing certain documents before the trial court and this has been now accepted by the first appellate court and the order passed in his favour.



6. It is settled law that whenever a petition is filed for receiving additional document in an appeal, the same shall be taken along with the appeal and therefore that must be considered only when the appeal is heard. On this ground, this Court sets aside the order passed in I.A. No.43 of 2018 in A.S.No.119 of 2017 on the file of the Additional Sub Court, Tenkasi. The matter is remitted back to the first appellate court. The first appellate court shall take up the case along with A.S.No. 119 of 2017. Since A.S.No.119 of 2017 is pending from 2017, the first appellate court is required to dispose of the matter within a period of two months at any rate not later than 28.02.2021.

7. In fine, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /2020

Sub Assistant Registrar (CS)

CM

**To**

1.The Additional Subordinate Judge,  
Additional Sub Court, Tenkasi.

2.The Section Officer -2 copies  
V.R.Section, Madurai Bench of Madras High Court,  
Madurai.

**C.R.P. (PD) (MD) No.455 of 2020**  
**& CMP (MD) .No.2783 of 2020**  
30.11.2020

ARK (CO)

KM (15.12.2020) 2P 4C