



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

**DATED: 02.06.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**C.R.P. (MD)Nos.235 & 236 of 2018**

**and**

**C.M.P. (MD)No.982 of 2018**

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1.Maruthaiah Pandian

2.Velladurai

... Petitioners / Respondents/Plaintiffs  
in both C.R.P.

Vs.

Muthaiah Pillai

... Respondent/Petitioner/3<sup>rd</sup> Defendant  
in both C.R.P.

**COMMON PRAYER:** Civil Revisions petition filed under Article 227 of the Constitution of India against the common fair and decreetal order dated 17.01.2018 made in I.A.Nos.40 and 41 of 2018 in O.S.No.70 of 2010 on the file of the Additional District Munsif Court, Nanguneri

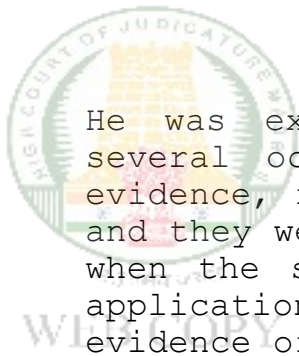
For Petitioners : Mr.S.P.Maharajan  
(in both C.R.P.)

For Respondent : Mr.H.Arumugam  
(In both C.R.P.)

**COMMON ORDER**

The petitioners are the plaintiffs in O.S.No.70 of 2010 on the file of the Additional District Munsif Court, Nanguneri. The respondent herein is the third defendant in the said suit. Originally, the petitioners have filed a suit in O.S.No.70 of 2010 on the file of the Additional District Munsif Court, Nanguneri for partition. After filing the written statement, framing of issues and also after completion of evidence, the respondent herein filed two interlocutory applications viz., I.A.Nos.40 and 41 of 2018 to reopen the case and to recall the plaintiffs' side evidence of P.W.1 respectively. The said petitions were allowed by the trial Court on 17.01.2018 by passing a common order subject to payment of costs of Rs.500/- in each petition. Challenging the said orders, respondents in the interlocutory applications and plaintiffs in the suit have filed the present Civil Revision Petitions before this Court.

2. The learned counsel appearing for the petitioners would submit that originally, the petitioners filed a suit for partition against the respondent herein. After filing the written statement and framing of issues, two witnesses were examined on the side of the petitioners. The first petitioner herein was examined as P.W.1.



He was extensively cross examined by the respondent herein on several occasions. After completion of the petitioners' side evidence, four witnesses were examined on the side of the respondent and they were also cross examined and trial was closed. Thereafter, when the suit was posted for arguments, the respondent filed two applications in I.A.Nos.40 and 41 of 2018 to reopen and recall the evidence of P.W.1 respectively. He further submits that even in the written statement, the respondent had not taken any specific plea regarding plea of bonafied purchase. Further P.W.1 was extensively cross examined on several occasions. He further submits that only to drag on the proceedings, the respondent had filed the said two applications, however, the trial Court, without considering the case of the defendants, has allowed the petitions and therefore, it warrants interference of this Court.

3. The learned counsel appearing for the respondent would submit that after completion of trial, during the arguments, it was noticed that some important questions with regard to the plea of bonafide purchase were not asked for in the earlier cross examination. Therefore, the respondent has filed two applications to reopen the trial and recall the evidence of P.W.1. He further submits that the trial Court has rightly allowed the applications on payment of costs of Rs.500/- in each petition and the conditions imposed by the trial Court was complied with and the amount was also deposited. He further submits that no prejudice would be caused to the petitioner, if the evidence of P.W.1 is recalled and if necessary, the petitioners can recall the respondent and they are also ready to co-operate for cross examination. He further submits that any time bound can be fixed for disposal of the suit.

4. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and also perused the records.

5. Admittedly, the petitioners are the plaintiffs in O.S.No.70 of 2018 on the file of the Additional District Munsif Court, Nanguneri. The respondent herein has been arrayed as third defendant in the said suit. After completion of trial, when the matter was posted for arguments, the respondent had filed two applications in I.A.Nos.40 and 41 of 2018 for reopening the case and recalling the evidence of P.W.1 respectively. The trial Court, after considering the entire materials, allowed the petitions on payment of costs of Rs.500/- in each petition. As pointed out by learned counsel for petitioners, without any pleadings in the written statement, the respondent cannot file a petition to recall and reopen the evidence of P.W.1. However, on reading of the entire materials, it is a settled principle of law that for chief examination, pleadings should be strictly followed and without pleadings, no evidence can be let in and even if it is let in, it cannot be looked into for any purpose. For cross examination the



same principle may not be strictly applicable. Therefore, considering the facts and circumstances of the case, nature of the petitions filed by the respondent and the reasons for allowing the petitions, this Court does not find any perversity in the order of the trial Court.

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6. Considering the facts and circumstances, there is no merit in these Civil Revision Petitions and the same are liable to be dismissed. Accordingly, these Civil Revision Petitions are dismissed. However, the suit was filed in the year 2010, the trial was commenced in the year of 2017 and P.W.1 was also cross examined and after completion of trial, during the arguments the respondent had filed two applications to reopen and recall the evidence of P.W.1. Therefore, the inconvenience caused to the petitioners has to be compensated with costs and the costs imposed by the trial Court is not sufficient. Therefore, the respondent is directed to pay a sum of Rs.2,500/- (Rupees Two Thousand Five Hundred only) in each petition, totally a sum of Rs.5,000/- (Rupees Five Thousand only), less the amount already deposited, which was already ordered by the trial Court, to the petitioner directly on or before 15.06.2020 and also file a compliance memo before the trial Court on 16.06.2020. In case, the respondent paid the amount and filed the compliance memo before the trial Court on 16.06.2020, the trial Court is directed to proceed the case in accordance with law. Since the suit is only for partition and pending from 2010, the trial Court is directed to dispose the suit as early as possible preferably within three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

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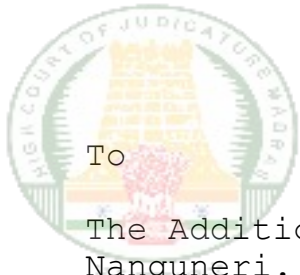
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Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be responsibility of the advocate/litigant concerned.



To

The Additional District Munsif,  
Nanguneri.

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+1 CC to MR.S.P.MAHARAJAN, Advocate ( SR-13025[F] dated 02/06/2020 )

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**02.06.2020**

VB (15.06.2020) 4P 3C