

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.(PD) No.102 of 2019
and
C.M.P.No.886 of 2019

1.Kalaiarasi
2.Maheswari

.. Respondent 2 & 3/Plaintiffs/Petitioners

Vs

1.Selvakumari
2.Dhanalakshmi

.. 1st Respondent /3rd Defendant/2nd Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 26.11.2018 made in I.A.No.701 of 2018 in O.S.No.388 of 2010 on the file of the Additional District Munsif Court, Namakkal.

For Petitioner .. Mr.T.L.Thirumalaisamy

For R1 .. Mr.R.Prabakar

For R2 .. Mr.Premkumar

ORDER

The plaintiffs in O.S.No.388 of 2010 which is now pending on the file of the Additional District Munsif Court, Namakkal, are the revision petitioners herein. They are aggrieved by the order dated 26.11.2018 in I.A.No.701 of 2018. That particular application had been filed by the 2nd defendant in the suit seeking amendment of the written statement already filed.

2.I have had the benefit of hearing arguments of Mr.T.L.Thirumalaisamy, learned counsel appeared for the revision petitioner and Mr.R.Prabakar, learned counsel for the 1st respondent / 2nd defendant.

3.Originally a written statement had been filed on behalf of the defendants in the suit. It had been stated that the relationships had been admitted and the right to a share in the property had also been admitted. The parties went for trial on the basis of such written statement.

4.Thereafter, I.A.No.701 of 2018 came to be filed by the 2nd defendant in the suit.

5.It must be mentioned that the two plaintiffs and the 2nd and 3rd defendants are the four daughters of the 1st defendant. The 2nd defendant had stated that the said statement in the written statement, admitting right to a share was a typographical error and therefore sought amendment to amend the said statement to one of denying the right to a share in the property. That application came up for consideration on 26.11.2018 and an order was passed permitting such amendment of the written statement.

6.It is brought to the notice of this Court by Mr.R.Prabakar, the learned counsel for the 1st respondent / 2nd defendant that the amendment had actually been carried out on 07.12.2018 and amendment copy had also been subsequently filed. The learned counsel pointed out the dates given in the copy application filed for preferring this revision and stated that the copy application was filed on 10.12.2018 after the amendment had been carried. The learned counsel therefore raised an issue of maintainability of the revision petition itself.

7.I am informed that the suit is posted for cross examination of PW-1.

8. At this stage of the proceedings when the matter is posted for cross-examination of PW-1, let me not interfere with the order passed but rather devote myself to giving few directions to the learned Additional District Munsif, Namakkal, to dispose of the suit within a stipulated period of time.

9. Since the amendment that had been permitted goes to the very root of the pleadings an opportunity must be given to the plaintiffs herein to file a reply to the amendment and also since PW-1 had not been cross-examined, permission is also given to PW-1 to tender any further evidence in chief with respect to the amendment carried out in the written statement.

10. I only hope that the dates given by the learned Judge with respect to filing a reply statement by the plaintiffs for which separate application seeking leave is not required and also in filing further proof affidavit in consonance with the said reply statement would be adhered to by both the plaintiffs and the defendants

11.The learned Additional District Munsif, may control the course of trial, after the pleadings are settled and after further proof affidavit is filed by posting the matter with a gap of three working days in between any two adjournment dates during the trial and also declining to grant adjournments for the same reason, if it is advanced on two successive occasions. By adopting such method the flow of trial may be certainly controlled.

12.I hope and trust that both the plaintiffs and the defendants would graze the witness box and adduce evidence and also subject themselves for cross-examination and ensure that the trial in the suit is completed within a reasonable period of time from this date.

13.With the said observations, the Civil Revision Petition is disposed of. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Internet: Yes/No
Index: Yes/No
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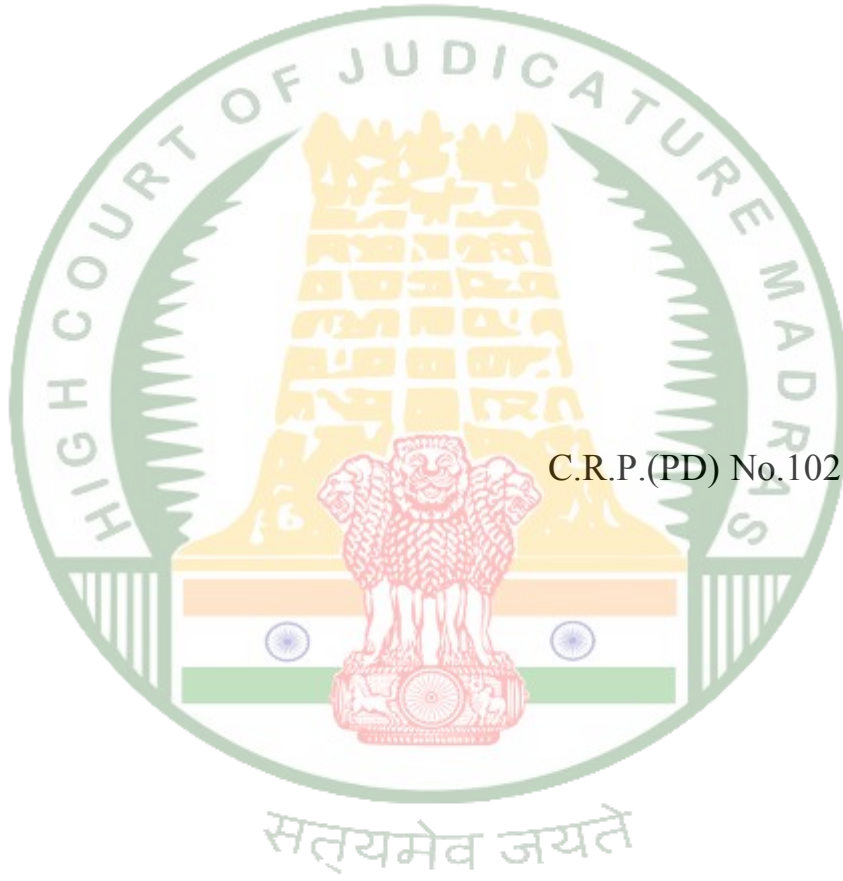
To
The Additional District Munsif Court,
Namakkal.

28.04.2021

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C.V.KARTHIKEYAN,J.

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