

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.Nos.1802 & 1803 of 2016
and CMP.No.9407 of 2016

CRP.PD.No.1802 of 2016

Kumari

..Petitioner

Vs.

1.Mahadevi
2.Senthil Kumar

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 09.12.2015 passed in IA.No.414 of 2015 in OS.No.18 of 2010 on the file of the Additional District Munsiff Court, Chengam

For Petitioner : Mr.K.Govi Ganesan

For Respondents

For R1 : Mr.K.V.Ravindran
R2 : Notice served

CRP.PD.No.1803 of 2016

Kumari

..Petitioner

Vs.

1.Mahadevi
2.Senthil Kumar

..Respondents

1/6

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 09.12.2015 passed in IA.No.415 of 2015 in OS.No.18 of 2010 on the file of the Additional District Munsiff Court, Chengam

For Petitioner : Mr.K.Govi Ganesan

For Respondents

For R1 : Mr.K.V.Ravindran

R2 : Notice served

COMMON ORDER

These civil revision petitions are filed against the fair and decretal order dated 09.12.2015 passed in IA.Nos.414 & 415 of 2015 in OS.No.18 of 2010 on the file of the Additional District Munsiff Court, Chengam thereby allowing the petition to reopen and recall PW1.

2. The petitioner is the first defendant and the first respondent is the plaintiff. The first respondent filed suit for bare injunction in respect of the suit schedule property. When the matter was posted for judgment, the first respondent came forward with the petition to reopen and recall along with the petition to receive additional documents in IA.Nos.414 to 416 of 2015. All the petitions were allowed. The petitioner challenged only the fair and decretal order passed in IA.Nos.414 & 415 of 2015 i.e.

reopen and recall of PW1 alone.

3. The learned counsel for the petitioner would submit that the first respondent failed to mention what are all the documents to be marked through PW1 and not mentioned in the affidavits filed in support of the reopen and recall petitions. Without even mentioning the documents which are going to be marked through her, the petitions cannot be allowed and the court below mechanically allowed the petitions.

4. The learned counsel for the first respondent would submit that the petitioner filed petitions to reopen, recall and to receive additional documents. The petitioner herein conveniently failed to challenge the final order passed in IA.No.416 of 2015 which was filed to receive additional documents, in which the first respondent categorically stated the details of the documents to be marked through PW1. These civil revision petitions are arising out of the petitions to reopen and recall. Therefore, the trial court rightly allowed the petitions and had given opportunity for the first respondent to mark the revenue documents. He further submitted that the first respondent is the legally wedded wife of the deceased Pandian Chettiar. When it being so, the petitioner herein claims to be the wife of late Manickam Chettiar. Therefore, it is bound and duty of the first respondent to prove her case by producing the revenue documents stand

in her name.

5. Heard, Mr.K.Govi Ganesan, the learned counsel for the petitioner and Mr.K.A.Ravindran, the learned counsel for the first respondent.

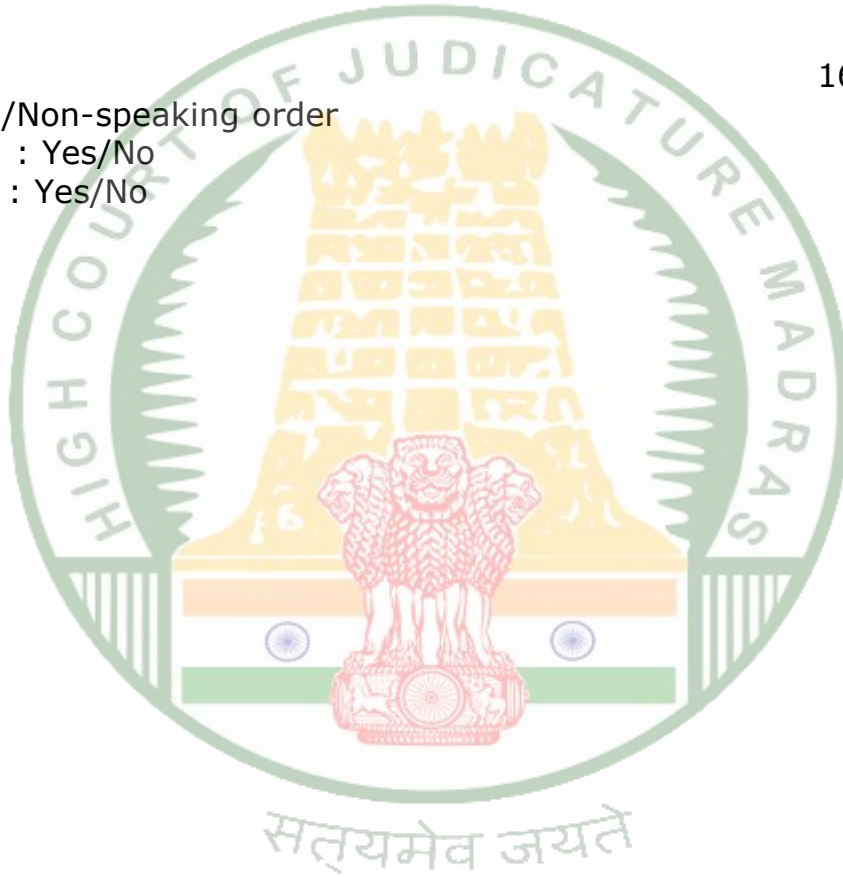
6. The petitioner is the first defendant and when the suit was posted for judgment, the first respondent who is the plaintiff filed petition for reopen, recall and to receive additional documents. All the petitions were allowed. The present civil revision petitions are filed only as against the petitions to reopen and recall. Therefore, the contentions of the petitioner cannot be considered since in the petition to receive additional documents, the first respondent mentioned all the documents and also filed copies of the same. Further, the first respondent filed suit for bare injunction and averred that she is the legally wedded wife and as such she has to prove her case by documents. Therefore, the court below rightly allowed the petitions and had given opportunity to the first respondent to mark documents and this Court finds no irregularity or infirmity in the orders passed by the court below.

7. Accordingly, both the civil revision petitions are dismissed.

Further, considering that the suit is of the year 2010, the trial court is directed to complete the trial within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

16.03.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

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To

The Additional District Munsiff Court,
Chengam



CRP.PD.Nos.1802 & 1803 of 2016

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