

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.R.P.(PD)No.2218 of 2018
and
CMP No.13976 of 2018

1.Sasikumar
2.Rubadevi

.... Petitioners

Vs

1.Mohanasundari
2.Kannammal
3.Senthilkumar
4.Saraswath
5.Arukkani
6.Manimekalai
7.Tamilselvan
8.R.Shanmugasundaram

9.The Sub Registrar,
Perundurai now Sub Registrar,
Aval Poondurai,
Erode Taluk

10.The Sub Registrar,
Perundurai Sub Registrar's Office,
Perundurai,
Erode District

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 08.06.2018 passed in I.A.No.277 of 2018 in O.S No.216 of 2015 on the file of II Additional District Court, Erode and allow the same.

For Petitioners : Mr.Kaithamalai Kumaran

For 1st Respondent : Ms.Zeenath Begum

For Respondents 2 to 10 : Given up

ORDER

Challenging the fair and decreetal order passed in I.A.No.277 of 2018 in O.S No.216 of 2015 on the file of II Additional District Court, Erode, the defendants 1 and 2 filed the above revision.

2.I.A.277 of 2018 was filed by the plaintiff/1st respondent herein under Order VII Rule 14(3) and Section 151 of Civil Procedure Code to mark additional documents. The main contention of the revision petitioners/defendants 1 and 2 herein is that documents were filed along with I.A.No.277 of 2018 on 08.06.2018 and on the same day, the Court below passed the following Order:-

“ Petition to receive the documents filed along with this petitions as additional documents on the side of the petitioner/plaintiff. The affidavit reveals that reasons for the delay in producing the said documents. The objection by the respondents/defendants is that the petition is not maintainable.

I have considered the contention of both sides. Evidence should not be shut at any stage, is the settled position of law. Hence, the petition mentioned documents are ordered to be received subject to proof and relevancy. No costs”

3. The learned counsel further contended that the Court below has not given any opportunity to file counter and hear the contention of the revision petitioners. The documents are all relating to audio recording and the Court below has passed a non-speaking order. Aggrieved over the same, the defendants 1 and 2 have filed the above revision.

4. Per contra, learned counsel for the first respondent/plaintiff submits that all the documents have been served along with the petition and the revision petitioners were given ample opportunity and order was passed after hearing the

revision petitioners. Hence, the trial court has rightly allowed the petition which does not require any interference.

5. Heard both sides and perused the materials available on record.

6. On perusal of the records, it appears that I.A.No.277 of 2018 was filed by the plaintiff/1st respondent herein before the Court below and it was served along with the documents on 08.06.2018. The main contention of the revision petitioners is that they have not been afforded an opportunity to file counter and a non-speaking order was passed.

7. In view of the above, this Court feels that it is appropriate to remand the matter to the Court below for permitting the revision petitioners to file counter.

8. Accordingly, the order passed in I.A.No.277/2018 in O.S.No.216 of 2015 is set aside and the Civil Revision Petition is allowed and the matter is remitted back to the Court below for permitting the revision petitioners to file counter.

9. The revision petitioners are directed to file counter within one week from the date of receipt of a copy of this Order and the Court below is directed to pass a speaking order after hearing both the parties, within thirty days from the date of filing the counter.

No costs. Consequently, connected miscellaneous petition is allowed.

19.02.2021

Index: Yes/No
Speaking order/Non-speaking order

sr

To

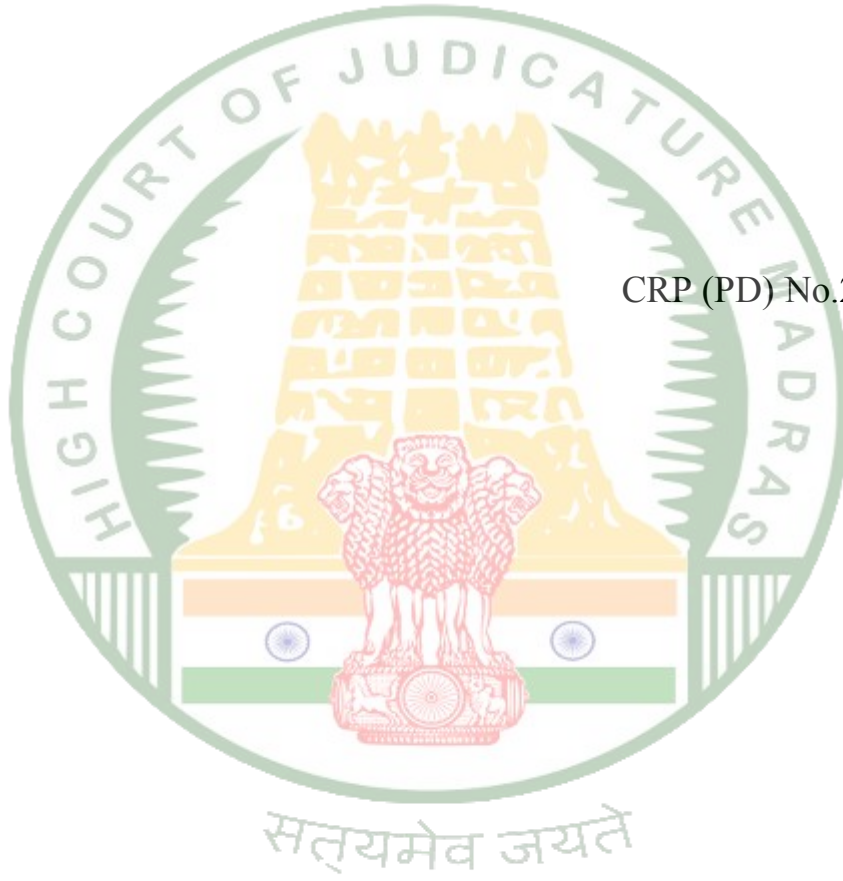
1. The II Additional District Court,
Erode.

2. The Sub Registrar,
Perundurai now Sub Registrar,
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3. The Sub Registrar,
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Perundurai, Erode District

KRISHNAN RAMASAMY,J.

sr



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