



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2021

CORAM

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P(MD) No. 963 of 2013

WEB COPY

Ramdoss

...Petitioner/ 1st Respondent/
1st Defendant

Vs.

1.Janabai @ Shanthi

...1st Respondent/Petitioner/
Plaintiff

2.Maheswari

...2nd Respondent/2nd Respondent/
2nd Respondent

(R2 is given up vide Court order
dated 01.12.2020 by RMDJ)

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 15.03.2013 made in I.A.No.210 of 2013 in O.S.No.93 of 2011 on the file of the II Additional District and Sessions Judge, Thiruchirappalli, by allowing this Civil Revision Petition.

For Petitioner : M/S.J.Anandhavalli
For R1 : Mr.C.Vakeeswaran

O R D E R

The Revision petition has been filed by the defendant against the order of the Trial Court permitting the plaintiff herself to give oral evidence and examine herself as PW2 in the main suit and to file Proof Affidavit.

2. The brief facts of the case as as follows:

i) The first respondent herein is the plaintiff in the main suit. The suit has been filed for the relief of partition, mesne profits and costs. Due to her poor health condition the plaintiff was unable to examine herself in the suit and thereby she had deputed her daughter to be examined as PW1 in the suit. Subsequently, after recovery she had filed an Interlocutory Application seeking to examine her as PW2.

ii) The respondent filed a counter stating that the plaintiff had already examined her daughter to depose on her behalf and her daughter has also deposed as PW. 1 and she was also cross examined and having found that the evidence exposed the falsity of the plaintiff's claim the present Interlocutory Application has been



filed to improve the case of the plaintiff. The Trial Court after hearing both sides allowed the Interlocutory Application, against which the present Civil Revision Petition has been filed.

3.The learned counsel for the revision petitioner would submit that only at the instance of the plaintiff her daughter was examined as PW1 and she was cross examined, however the plaintiff having found that her daughter's evidence exposed the falsity of the plaint claim, has filed the present Interlocutory Application, whereas the Trail Court without considering the same had allowed the same, thereby he seeks to set aside the order passed by the Trial Court.

4.The learned counsel for the respondent/plaintiff would submit that though the Interlocutory Application has been filed at that relevant time to examine the plaintiff as PW.2 the fact remains that the plaintiff has fallen sick again and at the present situation she may not be able to get in the witness box and depose. He would submit that the respondent is not pressing I.A.No.210 of 2013 and thereby nothing survives for adjudication. He would pray that the submission may be recorded and the revision may be allowed.

5. In view of the submission made by the learned counsel for the respondent that he is not pressing the application for the relief sought for in I.A.No.210 of 2013, this Court feels that the revision may be allowed. Accordingly, the same is allowed and the order passed in IA. No.210 of 2013 stands set aside. However, the Trial Court is directed to dispose of the suit pending in O.S.No.93 of 2011 as expeditiously as possible within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Sn/aav

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 the responsibility of the
advocate/litigant concerned.



To

The II Additional District and Sessions Judge,
Thiruchirappalli,

+1 CC to M/s.C.VAKEESWARAN, Advocate(SR-29692[F] dated 21/09/2021)

+1 CC to M/s.J.ANANDHAVALLI, Advocate(SR-29741[F] dated
21/09/2021)

C.R.P(MD)No.963 of 2013
20.09.2021

MGJ(07.10.2021) 3P 4C