



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) Nos.2499 of 2014 & 209 of 2015

and

M.P. (MD) No.1 of 2015 (In each case)

WEB COPY

Chinnasamy .. Petitioner/Respondent/Defendant
in CRP(MD)No.2499/2014

Chinnasamy @ Chinnan .. Petitioner in CRP(MD)No.209/2015
-vs-

1.Solaiammal
2.Velammal
3.Pechiammal
4.Ayyanar
5.Paramasivan
6.Raja
7.Muthumariappan
8.Chithra .. Respondents/Petitioners/Plaintiffs
in both cases

Prayer in C.R.P.(PD) (MD) No.2499 of 2014 :- Petition filed under Article 227 of the Constitution of India against the order dated 19.09.2014 passed in Memo dated 29.04.2014 in I.A.No.1202 of 2013 in O.S.No.261 of 2013 on the file of the District Munsif Court, Kovilpatti.

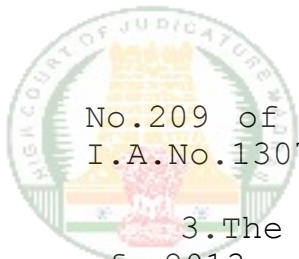
Prayer in C.R.P.(PD) (MD) No.209 of 2015 :- Petition filed under Article 227 of the Constitution of India against the order dated 25.11.2014 passed in I.A.No.1307 of 2014 in I.A.No.1202 of 2013 in O.S.No.261 of 2013 on the file of the District Munsif Court, Kovilpatti.

For Petitioner : Mr.Saravanan
(In both cases)
For Respondents : Mr.G.Sridharan
(In both cases)

COMMON ORDER

These Civil Revision Petitions arise out of the suit in O.S.No.261 of 2013 on the file of the learned District Munsif, Kovilpatti.

2.C.R.P.(PD) (MD) No.2499 of 2014 is filed challenging the order dated 19.09.2014 passed in Memo dated 29.04.2014 in I.A.No.1202 of 2013 in O.S.No.261 of 2013; and C.R.P.(PD) (MD)



No.209 of 2015 is filed challenging the order dated 25.11.2014 in I.A.No.1307 of 2014 in I.A.No.1202 of 2013 in O.S.No.261 of 2013 .

3.The respondents/plaintiffs had filed the suit in O.S.No.261 of 2013 on the file of the District Munsif, Kovilpatti for a declaration that the suit properties belonged to them and for a consequential injunction restraining the defendant from interfering with their peaceful possession and enjoyment of the suit property and for a declaration that the document dated 07.08.1987 bearing Document No.650 /1987 on the file of the Sub Registrar, Ettayapuram in the name of the defendant is null and void as also the document dated 24.04.1992 bearing Document No.322/1992 on the file of the Sub Registrar, Ettayapuram.

4.The defendant had filed his written statement and along with the written statement, he had filed 12 documents. However, the learned District Munsif, Kovilpatti had received only the written statement and had returned the documents filed, which were 12 in number. The defendant therefore, filed a Memo enclosing these documents, which Memo was dismissed on 19.09.2014.

5.The learned District Munsif, Kovilpatti without appreciating the fact that the documents were the very same documents that had been filed along with the written statement and returned by the District Munsif, proceeded to dismiss the said Memo. In fact, the learned Judge had dismissed the Memo by considering each of the documents on merits holding that they were inadmissible in evidence. It is challenging the said order C.R.P.(PD) (MD) No.2499 of 2013 is filed.

6.Meanwhile the defendant had also, as a consequential relief, sought to reopen I.A.No.1202 of 2013 to mark the documents by filing I.A.No.1307 of 2014. This application in I.A.No.1307 of 2014 was also dismissed on 25.11.2014 and C.R.P.(PD) (MD) No.209 of 2015 is filed challenging the same.

7.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

8.Admittedly, the defendant had filed all the documents along with the written statement and the certified copy of the written statement, which was produced in open court by the learned counsel for the petitioner, would show that the learned Judge had only received the written statement and had returned all the documents. The documents that are now sought to be filed along with the Memo are nothing but the documents filed along with the written statement. The learned Judge has also overlooked the fact that the documents even if they are taken on file have to be marked as exhibits during evidence and at that stage, the documents are received only subject to their proof and relevancy. The petitioner



Therefore, the order passed by the learned Judge, has to necessarily be set aside. Once the documents are received, they have to be marked.

9.The learned counsel on both sides would submit that the suit is now ripe for trial. Therefore, the documents filed in the Memo shall be treated as documents filed in the written statement and the parties shall proceed with the evidence in the suit.

10.In the result, these Civil Revision Petitions are disposed of with the following direction:-

(a) the documents filed along with the Memo shall be treated as documents filed along with the written statement; and

(b) the parties shall be directed to commence the evidence in the suit and the learned District Munsif, Kovilpatti shall conclude the trial within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

abr

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 District Munsif,
Kovilpatti.

+1 CC to M/s.G. SRIDHARAN, Advocate (SR-35220[F] dated 19/11/2021)

C.R.P. (PD) (MD) Nos.2499 of 2014 &
209 of 2015

Dated: 19.11.2021

TSK(CO)

GC(07.12.2021) 3P 3C