



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	23.12.2020
DELIVERED ON	19.01.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) Nos.1752 & 1753 of 2017 (PD)
and CMP(MD) No. 9452 of 2017

1. Vaikuntaraj
2. S. Jegatheesan
3. V.V. Minerals, Keeraikaranthattu,
through its Managing Partner,
Vaikuntaraja. ... Petitioners/R-6, 10 & 17/
D-6, 10 & 17 in both CRPs.

vs.

1. R. Arulsigamani
2. A.R.D. Prince Charles
3. A. Andrew Robin Selvakumar
4. Mary Rosalin Sujatha
5. A. Elsy Syla Evangelin ...R-1 to R-5/Petitioners/Plaintiffs
6. Pauldurai @ Perumal
7. M. Sivasubramanian
8. V. R. Sivasankaran
9. S. Parvathi
10. Thangalakshmi Sivasubramanian
11. S. Chandresan
12. S.P. Thangaraj
13. A.S.V. Subbiah Nadar
14. S. Sukumar
15. The State of Tamilnadu,
Represented by Secretary,
Industries Department having office at
Fort Saint George, Madras.
16. The District Collector of Nellai Kattabomman District,
Having office at Kokkirakulam, Tirunelveli.
17. The Director of Geology and Mining,
Having Office at Palayamkottai,
Tirunelveli.
18. The Deputy Director of Geology and Mining,
Having Office at Kokkirakulam, Tirunelveli.



19. The Registrar of Firm,
Having office at Palayamkottai,
Tirunelveli.

20. Chitraboopathy

... R6 to 20/R-1 to 5, 7 to 9,
11 to 16 & 18/D-1 to 5, 7 to 9, 11
to 16 & 18 in both CRPs.

COMMON PRAYER: Petitions filed under Article 227 of the Constitution of India, to allow the Civil Revision Petitions by setting aside the fair and decreetal order passed in I.A. Nos. 460 & 461 of 2017 in O.S. No. 39 of 1993, dated 14.09.2017 on the file of the Principal Sub Court, Tirunelveli.

In Both CRPs.

For Petitioners : Mr.S. Meenakshi Sundaram
for N.GA. Natraj
For R-1 to R-5 : Mr. N. Dilip Kumar

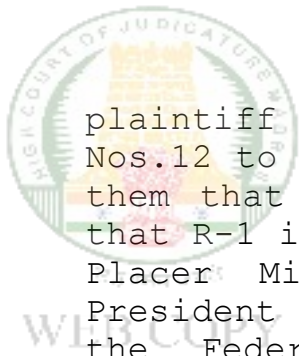
COMMON ORDER

These Civil Revision Petitions have been filed to set aside the fair and decreetal order passed in I.A. Nos. 460 & 461 of 2017 in O.S. No. 39 of 1993, dated 14.09.2017 on the file of the Principal Sub Court, Tirunelveli.

2. The R-1 to R-5 herein/plaintiffs have filed a suit in O.S. No.39 of 1993. During the pendency of the suit, R-1, R-3 to 5 herein have filed a petitions in I.A. No.460 of 2017 in O.S. No. 39 of 1993 under Order 18 Rule 17 of CPC to recall P.W.1 and I.A. No. 461 of 2017 in O.S. No. 39 of 1993 under Order 7 Rule 14(3) of CPC., to receive documents and both the petitions were allowed on 14.09.2017 by the learned Principal Sub Judge, Tirunelveli. Against the common order, dated 14.09.2017 the instant Civil Revision Petition is filed.

3. The learned counsel appearing for the revision petitioners submitted that the Court below failed to note that after the completion of P.W.2's evidence on 23.8.2017 which commenced on 17.08.2017 the present petition to recall had been filed on 28.08.2017. He further submitted that the Court below had failed to note that P.W.1 has filed these petitions to fill up the omission caused in P.W.1's evidence who had already been examined. He further submitted that the Court below had not stated any proper reason for allowing the application to recall of P.W.1. Hence, he prayed to allow the Civil Revision Petition.

4. In response, the learned counsel for R-1 to R-5/
5. Petitioners/Plaintiffs submitted that the R-1 herein is the 1st
<https://hcservices.courts.gov.in/hcservices/>



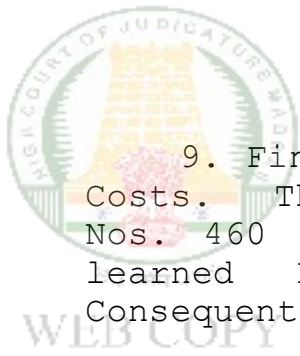
plaintiff in the suit and he has given notice to the respondent Nos.12 to 16 to produce certain documents, but, it was informed by them that all of documents were destroyed. He further submitted that R-1 is a member of an association called federation of Indian Placer Minerals Industries and hence, he was informed the President of the above said Federation and on the application of the Federation copies of documents were supplied by the respondents. He further submitted that R-1 has received those documents from the federation and those documents were very important and relevant to prove the case of the R-1 to R-5/Petitioners/Plaintiffs. Therefore, the documents have to be received and to mark those documents P.W.1 has to be recalled.

5. Heard on either side and the records were examined carefully.

6. In both petitions, the revision petitioners/R1, R-3 to R-5/Plaintiffs have filed I.A. No. 460 of 2017 to recall P.W.1 and I.A. No.461 of 2017 to receive documents.

7. The petitions have been filed by the petitioners/plaintiffs to receive documents and to recall P.W.1. It is the averments in the affidavit that the petitioner has applied copies of some important documents with respondent Nos.12 to 16 and they did not give copies and so petitioners got the copies of document through the President of Federation of Indian Placer Minerals Industries and now filed before this Court. The main contention on the side of respondent is that most of the documents are photo copies and those documents are not admissible in evidence. It is seen that the respondent Nos.12 to 16 are Government Officials. During the trial, the petitioner has issued notice to produce some documents and the respondents submitted that those documents are not available with them. So, if the petitioner is able to prove that the respondents refused to produce certain documents, then the copies of those documents are admissible as secondary evidence. The learned Counsel for the petitioner in support of his argument submitted a decision of this Court in the case **Bajaj Auto Limited Vs. TVS Motor Company Limited** reported in 2016(6) CTC 459. In the above Judgment, this Court has held that the objections relating to marking of documents can be decided at the time of final arguments.

8. These Civil Revision Petitions have been filed to recall of P.W.1 to mark documents. The Subordinate Court allowed the petition in I.A. No. 460 of 2017 subject to proof and relevancy. The revision petitioners herein very well objected and cross examined P.W.1. Therefore, the learned Principal Sub Judge, Tirunelveli, has rightly allowed both petitions. Hence, this Court has no valid reason to interfere with the findings.



9. Finally, these Civil Revision Petitions are dismissed with Costs. The fair and decreetal order, dated 14.09.2017 in I.A. Nos. 460 & 461 of 2017 in O.S. No. 39 of 1993 passed by the learned Principal Sub Judge, Tirunelveli, is hereby confirmed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (RTI)

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/ /2021

Sub Assistant Registrar (CS)

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To

1) The Principal Subordinate Judge,
Tirunelveli.

2) The Section Officer-2 copies
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.N.GA.NATRAJ, Advocate (SR-1294[F] dated 20/01/2021)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-1467[F] dated 20/01/2021)

Common Order made in
C.R.P. (MD) Nos.1752 & 1753 of 2017 (PD)
19.01.2021

KM (01.02.2021) 4P 6C