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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos. 451 & 452 of 2016

and

CMP.No.2329 of 2016

1.S.Ramasamy
2.A.Veerappam
3.A.Krishnamoorthy

..Petitioners
(in both CRPs)

Versus

1.P.Kaliappan (Deceased)
2.Dhanalakshmi
3.Minor Gopika
4.Minor Thirisha
Represented by her Mother/
Natural Guardian Dhanalakshmi

...Respondents
(in both CRPs)

(R2 to R4 brought on record as LRs of the deceased sole respondent viz P.Kaliappan vide Court order dated 21.03.2018 made in C.M.P.20736 & 20737/ 2017 in C.R.P.Nos.451 & 452/ 2016)

Prayer in CRP.No.451 of 2016: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 07.01.2016 made in I.A.No.1182 of 2015 in O.S.No.347 of 2009 on the file of District Munsif Court, Sankari.

Prayer in CRP.No.452 of 2016: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 07.01.2016 made in I.A.No.1234 of 2015 in O.S.No.347 of 2009 on the file of District Munsif Court, Sankari.

In both CRPs:

For Petitioners : Mr.P.Valliappan
For RR 2 to 4 : Mr.N.Manokaran
For R1 : Died



COMMON ORDER

These Civil Revision Petitions have been filed by the petitioners/defendants seeking to set aside the fair and decretal order dated 07.01.2016 passed in I.A.Nos.1182 & 1234 of 2015 in O.S.No. 347 of 2009 by the learned District Munsif, Sankari.

2. The petitioners are the defendants and the deceased first respondent was the plaintiff in the original suit.

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

4. After hearing the submissions made by the learned counsel on either side, it is seen that the deceased first respondent/plaintiff filed the suit in O.S.No.347 of 2009 on the file of District Munsif Court, Sankari, for partition and permanent injunction. Subsequently, the petitioners/defendants had filed written statement on 01.06.2010 and reply statement was also filed in the said suit. Thereafter, issues were framed and trial has also commenced.

5. During the cross examination of PW1, certain documents, namely, Legal Heirship Certificate of parents of the petitioner, Death Certificate of grandmother-Pazhaniammal of the petitioner, Sale Deed dated 24.03.1970 and the xerox copy of the documents were also produced at the time of filing of the suit. Thereafter, the deceased first respondent/plaintiff has filed two interlocutory applications in I.A.Nos.1234 & 1182 of 2015 to reopen, recall and for producing relevant documents. But with regard to production of the said documents, the trial Court not accepted as it is not necessary at the time of trial. After commencement of the trial, the plaintiff filed the aforesaid applications to reopen the case and recall PW1 to mark the documents and to examine additional witnesses, which are necessary to prove his case to be decided between the parties accordingly, the said applications were allowed. Challenging the same, the petitioners/defendants had preferred these Civil Revision Petitions.

6. It is also admitted by the petitioners/defendants that, at the time of filing of the reply statement, the deceased first respondent/plaintiff sought permission in I.A.No.1148 of 2014 before the Court below to produce certain documents and the same was not permitted and suggested the plaintiff to produce at the



time of trial with appropriate application. Therefore, the aforesaid documents were not produced at that time. Even during PW1's cross-examination she admits the possession of documents. Hence, the objection raised by the defendant that the plaintiff purposely withhold the documents with intention to drag on the proceedings is unsustainable one.

7. However, the petitioner has already produced the aforesaid documents along with reply statement in I.A.No.1148 of 2014 and the same was dismissed on 30.06.2015 with liberty to produce the documents at the time of trial. Now during the pendency of examination of witnesses, he filed this petition and the same was rightly appreciated by the trial Court. Hence, this Court does not find any reason to interfere with the impugned order of the Court below, as there is no illegality or irregularity in the same.

8. On a perusal of the documents, it reveals that the suit in O.S.No.347 of 2009 which was filed in the year 2009 for the relief of partition and permanent injunction. Therefore, the Trial Court is directed to dispose of the said suit itself within a period of five months from the date of receipt of a copy of this order. Both parties are directed to co-operate for the trial and the petitioners/defendants are entitled to put forth their case before the trial Court while marking of documents.

9. With the above directions, the Civil Revision Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To
1. The District Munsif,
Sankari.



+2 Ccs to Mr.P.Valliappan, Advocate sr 2676

+2 Ccs to Mr.N.Manokaran, Advocate sr 2600, 2601.

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C.R.P.Nos. 451 & 452 of 2016

PMK (CO)

SP (15/03/2022)