



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE T.V.THAMILSELVI

CRP.No.2278 of 2019
and CMP No.14878 of 2019

Palani

.. Revision Petitioner
/2nd Petitioner/
2nd plaintiff

..Vs..

1. Sadhasivam
2. Athilakshmi
3. Kasiyammal
4. Muniyammal
5. Vendamirtham
6. Pachaiyappan

..Respondents/Respondents/
Defendants

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order and decretal order dated 07.03.2019 passed in I.A.No.2229 of 2018 in O.S.No.583 of 2014 by the learned District Munsif Madurantakam, Kanchipuram District and allow the petition in I.A.No.2229 of 2019 by allowing this Civil Revision petition.

For Petitioner : Mr.Nagu Shah N
For Respondents : Mr.M.S.Subramanian
for R1 & R2
R3, R5 and R6 – No appearance
R4 – Insufficient Address

ORDER

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This Revision petitioner is the 2nd plaintiff in O.S.No.583 of 2014.

Originally, the suit was filed by his father late Govindasamy for the relief of declaration and for consequential relief against the defendants before the District Munsif Court, Madurantakam. The defendants contested the suit by filing the written statement, issues were framed and the trial was commenced. The Plaintiff Govindasamy was examined as PW1. PW2 was also examined and thereafter, Govindasamy (PW1) was died and his son was added as a 2nd plaintiff in the suit. He filed an application under Order XVIII Rule 3(A) to permit him to adduce evidence as PW3 in I.A.No.2229 of 2018. The said application was objected by another contesting defendant stating that after cross examination of PW2, the 2nd plaintiff is not entitled to examine himself as a witness. On considering both sides submission, the trial Court dismissed the petition on the ground that without obtaining permission to examine himself as witness, he cross examined PW2. Challenging the said order, this Civil Revision petition has been filed.

2. The learned counsel for the revision petitioner submitted that after the death of the father of this petitioner, the 2nd plaintiff impleaded himself in the suit. Since the plaintiff side evidence is yet to be closed, he filed an application to examine himself as one of the witness.



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3. By way of reply, the learned counsel for the respondents submits that revision petitioner being a contesting witness to the general power of attorney and impleaded him as plaintiff in the suit, he had lost his opportunity to examine himself as a witness. Therefore, prays this Court to dismiss this revision petition.

4. Heard the learned counsel appearing on both side and perused the materials placed before it.

5. This Court is of the view that though the petitioner being the son of the deceased Govindasamy, was impleaded as a 2nd plaintiff in the suit, he has to necessarily examine himself as PW3 because already PW2 evidence was adduced before the Trial Court and therefore, the reason assigned by the Trial Court as such is not maintainable. Opportunity shall be given to the party to examine himself as witness, even though he is a contesting witness of the Power of Attorney, due to the death of his father and hence, he is entitled to adduce himself as a witness on the side of the plaintiff. Accordingly, the Criminal Revision Petition is allowed. Since the suit is pending from the year 2014, the learned Trial Court is directed to complete the case within a period of



six months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

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13.10.2022

rka

Index : Yes / No

Internet : Yes / No

To

District Munsif Madurantakam, Kanchipuram District



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T. V.THAMILSELVI.,J
rka

To

District Munsif Madurantakam, Kanchipuram District

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