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CRP.No.3455 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3455 of 2019
and CMP.No.22734 of 2019

1.P.Kannappan
2.S.Saraswathi
3.V.Jayanthi

... Petitioners

Vs.

1.Shankaranandam
2.S.Thirugnanasambandam
3.Boopathi
4.V.Selvi
5.P.Poongodi
6.M.Rudramoorthi
Respondents

...

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order passed in IA.No.1 of 2019 in IA.No.583 of 2018 in OS.No.45 of 2018 on the file of the V Additional District Judge of Coimbatore dated 23.09.2019 by allowing the present civil revision petition.

For Petitioners : Mr.M.Guruprasad

For Respondents : No appearance



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ORDER

This civil revision petition has been filed to set aside the fair and decretal order passed in IA.No.1 of 2019 in IA.No.583 of 2018 in OS.No.45 of 2018 on the file of the V Additional District Judge of Coimbatore dated 23.09.2019, thereby dismissed the petition filed to summon the third respondent herein for his cross examination in respect of IA.No.583 of 2018.

2. Heard, the learned counsel for the petitioners.

3. The petitioners are the plaintiffs. They filed suit as against 12 defendants. While the suit was pending, the respondents herein who were the third parties to the suit filed application in IA.No.583 of 2018 to implead themselves as parties to the suit along with their affidavit filed in support of the application to implead themselves as party. They filed eight documents. On their affidavit, all the documents were marked as Ex.P1 to Ex.P8 in IA.No.583 of 2018. The petitioners had serious objections to mark those documents. As such, they filed application in IA.No.1 of 2019 summoning the person who filed affidavit to mark documents Ex.P1 to Ex.P8 for cross examination. However, the said application was dismissed on the ground that without



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evidence let in by the third respondent herein, he cannot be subjected for cross examination. It is true that without any chief examination, he cannot be subjected for cross examination. However, on perusal of records, the respondents filed IA.No.583 of 2018 to implead themselves as parties to the suit. They filed documents and they were marked as Ex.P1 to Ex.P8 without any chief examination. The petitioners have very serious objections in marking those documents and as such, the person who filed affidavit in support of those documents to be cross examined by them. Since the third respondent herein did not file any proof affidavit to mark those documents, he cannot be subjected to cross examination. However, the documents marked as Ex.P1 to Ex.P8 cannot be looked into since they would be inadmissible under the Evidence Act when those documents were not marked in accordance with law.

4. Therefore, though the court below rightly dismissed the petition seeking cross examination of the third respondent herein, the court below cannot look into the documents which are marked as Ex.P1 to Ex.P8 while disposing the IA.No.583 of 2018 to implead themselves as defendants in the suit.

5. With the above direction, this civil revision petition is disposed of.



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Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

19.12.2022

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To



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The V Additional District Judge of Coimbatore

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