



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Seventh day of March Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

WEB COPY

C.M.P. (MD)No.1682 of 2022
in
S.A. (MD)No.148 of 2010

1 A.RAMAN
2 KALIAMMAL
3 S.ARUMUGAM
4 S.MAHADEVAN
5 S.ANANDAN
6 AZHAGI
7 NACHI
8 POTHUM PONNU

... PETITIONERS/ APPELLANTS

Vs

1 N.VEERAN
2 THE TAHSILDAR,
MELUR TALUK,
MELUR TOWN,
MADURAI DISTRICT.

... RESPONDENTS / RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to receive the original Assignment Order dated 20.01.1974 in favour of the 1st defendant as additional evidence in the above S.A. (MD) No. 148 of 2010, on the file of this Honourable Court.

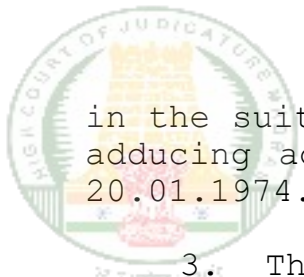
PRAYER IN S.A.(MD)No.148 of 2010:

To set aside the decree and the judgment dated 18.05.2009 rendered in A.S.No.22 of 2008 on the file of the Additional District Judge (Fast Track Court No.2) Madurai, confirming the decree and the judgment dated 07/11/2005 rendered in O.S.No.32 of 2004 on the file of the District Munsif of Melur, by allowing this Second Appeal.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.P.JESSI JEEVA PRIYA, Advocate for the petitioner and of MR.ALAGURAM JOTHI, Advocate for M/S.B.C.CATHERINE EVI, Advocate for the 1st respondent and MR.R.RAGAVENDRA, Government Advocate for the 2nd respondent, the court made the following order:-

The defendants in O.S.No.32 of 2004 on the file of the District Munsif, Melur, are the appellants in this second appeal.

2. The first defendant passed away and appellants 2 to 8 are
<https://hcservices.ecourt.gov.in/hcservices/> The first appellant Raman is the second defendant



in the suit. The appellants have filed C.M.P.(MD)No.1682 of 2022 for adducing additional evidence by marking the assignment order dated 20.01.1974.

3. The contesting respondent has filed counter affidavit pointing out that no explanation has been given as to why this additional evidence could not be adduced at the trial stage itself.

4. No doubt, the objection raised by the respondents is sound. But then, to enable the Court to pronounce a satisfactory judgment, permitting the additional evidence to record is granted. It has been held in **Wadi Vs. Amilal and Others (JT 2002 (6) SC 16)** that the discretion to permit adducing additional evidence will not depend upon the vigilance or negligence of the parties but on the requirement of justice. If by permitting additional evidence to record and to pronounce the satisfactory judgment, discretion should be exercised.

5. In the case on hand, the plaintiff himself has referred to the assignment order which is now proposed to be marked as additional evidence. The genuineness of the document is beyond question. The assignment order issued in favour of Segudan finds place in the pleadings. Segudan is no more. His wife has now made it available to the first appellant. Therefore, in the interest of justice, this civil miscellaneous petition is allowed.

sd/-

07/03/2022

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/ /2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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

- 1 THE ADDITIONAL DISTRICT JUDGE,
(FAST TRACK COURT NO.2), MADURAI.
- 2 THE DISTRICT MUNSIF, MELUR.
- 3 THE TAHSILDAR,
MELUR TALUK, MELUR TOWN, MADURAI DISTRICT.

ORDER IN
C.M.P.(MD)No.1682 of 2022 in
S.A.(MD)No.148 of 2010
Date :07/03/2022

PMU

<https://hmcrcvscs.org.in/Services/03.2022/2P/4C>