



CRP(PD)(MD)Nos.1364 to 1367 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)Nos.1364 to 1367 of 2022

and

CMP(MD) Nos.5673 of 2022 in CRP(PD)(MD) No.1364 of 2022

1.M.Murugan
2.M.Narayanan
3.K.Palaniyammal
4.K.Muthueeswari

... Petitioners in all CRPs

Vs

1.Sri Annapoorna Gowrisankar
Estates & Constructions Pvt Ltd.,
Rep by its Managing Director,
No.75, East Arokkiyasamy Street,
R.S.Puram,
Coimbatore – 641 002.

2.M.Sivasubramanian,
Finance Manager,
Sri Annapoorna Gowrisankar
Estates & Construction Pvt Ltd,
No.75, East Arokkiyasamy Street,
R.S.Puram,
Coimbatore – 641 002.



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3.S.Ragu

4.R.Srinivasan

5.Austin Fernandez

6.M.Palani

... Respondents in all CRPs

(R3, R4 & R6 were set exparte in the lower Court and hence they are given up)

Common Prayer: Petitions filed under Article 227 of the Constitution of India, to call for the orders dated 25.03.2022 in I.A.Nos.4 to 7 of 2021 in O.S.No.285 of 2008 on the file of the learned Additional District Munsif Court, Aruppukottai and set aside the same.

For Petitioners : Mr.C.Dhanaseelan
For R1 : Mr.S.Parthasarathy
For R2 to R5 : No appearance

(In all CRPs)

COMMON ORDER

These Civil Revision Petitions are filed as against the fair and decreetal orders passed by the learned Additional District Munsif, Aruppukottai in I.A.Nos.4 to 7 of 2021 in O.S.No.285 of 2008, dated 25.03.2022.

2.The petitioners are the plaintiffs in O.S.No.285 of 2008 and they have filed the suit as against the respondents/defendants for the

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relief of declaration of title, permanent injunction and for mandatory injunction. The suit was filed in the year 2008. After completion of plaintiffs' side evidence during 2019, since the defendants have not preferred to examine any evidence, the suit was posted for arguments. At that stage, the petitioners have filed the following interlocutory applications:-

- I.A.No.4 of 2021 – filed under Section 151 of CPC to reopen the case.
- I.A.No.5 of 2021 – filed under Order 18 Rule 17 r/w Section 151 of CPC – to recall PW 2.
- I.A.No.6 of 2021 – filed under Order 7 Rule 14(3) – to receive additional documents.
- I.A.No.7 of 2021 – filed under Section 65(C) of Indian Evidence Act r/w Order 18 Rule 14 (3) r/w Section 151 of CPC – to receive secondary evidence.

The documents which are sought to be marked by the petitioners are as follows:-



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- 1) First Information Report in Crime No.21 of 2007 dated 19.08.2007, District Crime Branch, Virudhunagar.
- 2) Power of Attorney executed by the fourth defendant in favour of the first defendant, dated 26.02.2008.
- 3) Sale Deed executed by the first defendant as power holder of the fourth respondent in the name of M/s.Palani Murugan Holding Private Limited, dated 12.04.2010.
- 4) Sale Deed executed by the first defendant as power holder of the fourth respondent in favour of M/s.Saravana Holdings Private Limited, dated 12.04.2010.
- 5) Petition in Crl.M.P.No.4769 of 2007 dated 08.08.2007, filed by the third respondent, under Section 156(3) of Cr.P.C on the file of the Judicial Magistrate Court II, Virudhunagar.
- 6) Information obtained by way of RTI Act, dated 09.11.2021.

The trial Court, while dismissing the above applications has held that these applications have been filed at the stage of arguments and the documents which were sought to be relied upon by the petitioners are not really required to decide the issue in the suit. Aggrieved over the same, the present Civil Revision Petitions are filed.



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3.The learned counsel appearing for the petitioners/plaintiffs submits that as per Order 18 Rule 3 of Civil Procedure Code, plaintiffs can withheld certain documents and during the trial those documents can be marked through defendants. In this case, the defendants have not preferred to examine themselves as witnesses and therefore, the petitioners could not place those documents at the time of trial. According to the petitioners, with regard to two documents, First Information Report in Crime No.21 of 2007 dated 19.08.2007 and the Power of Attorney executed by the fourth defendant in favour of the first defendant, dated 26.02.2008, there are pleadings in the plaint and insofar as other documents are concerned, they are created subsequent to the institution of the suit. The learned counsel further submits that the First Information Report was registered based on the private complaint filed before the Magistrate Court II, Virudhunagar, under Section 156(3) of Cr.P.C in CrI.M.P. No.4761 of 2007, dated 08.08.2007. In order to mark those documents, the petitioners have filed the above applications and there is no intention for the plaintiffs to drag on the proceedings



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unnecessarily. However, the trial Court without considering the significance of the documents to decide the issue involved in the suit dismissed the applications.

4.The learned counsel appearing for the respondents/defendants submits that the suit was filed in the year 2008. Examination of PW 1, PW 2 & PW 3 in chief and cross has been closed on 17.07.2019, 21.10.2019 and 21.01.2021 respectively. The dispute arose between the plaintiffs and the defendants in pursuant to the power deed created in the year 2008. That power deed was not cancelled. The plaintiffs accepted the receipt of money and the execution of the power deed. When the suit was posted for arguments, the petitioners have filed the above interlocutory applications and those applications were dismissed. The attempt made by the plaintiffs to mark certain documents at the time, when the suit was posted for arguments is only to drag on the proceedings and to give pressure to the respondents/defendants. The learned counsel for the respondents is also having certain apprehension



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that these applications were filed only to water down their documents made in their evidence and also they are attempting to drag on the proceedings.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioners are the plaintiffs in the suit in O.S.No.285 of 2008 pending on the file of the Additional District Munsif, Aruppukottai, which was filed for declaration, injunction and also for mandatory injunction. After completion of plaintiffs' side evidence on 10.02.2021, it was posted on 19.02.2021 for the defendants' side evidence. Since the defendants have not chosen to adduce any evidence on their side, the suit was posted for arguments on 01.03.2021. Thereafter, the petitioners have filed the applications to mark certain documents. The learned counsel for the petitioners made out a case that they can reserve some documents for marking the same, at the time of



examination of defendants' side evidence, as per Order 18 Rule 3 of Civil Procedure Code. In this case, the defendants have not chosen to enter into the witness box and therefore they were not in a position to mark those documents during the trial. Order 18 Rule 3 of Civil Procedure Code is extracted as under:-

Order 18, Rule 3 of Civil Procedure Code:-

Evidence where several issues- Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.



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The above rule enables the plaintiffs to reserve certain documents to mark at the time of examination of defendants' side evidence.

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7. In view of the above, these Civil Revision Petitions are allowed and the impugned orders passed by the learned Additional District Munsif, Aruppukottai in I.A.Nos.4 to 7 of 2021 in O.S.No.285 of 2008, dated 25.03.2022 are set aside. Considering the objections raised by the learned counsel for the respondents that the petitioners are attempting to drag on the proceedings when the case is posted for arguments, there shall be a direction to the petitioners/plaintiffs to produce the witnesses within a period of four weeks from the date of receipt of a copy of this order and the respondents/defendants shall cross examine the witnesses on the same day and the trial Court shall dispose of the suit within a period of four weeks from thereon. It is made clear that the petitioners/plaintiffs are permitted to mark the above documents alone and they are not entitled to take advantage of the permission granted by this Court to reopen and they are also not permitted to adduce



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any further/new evidence/documents. No costs. Consequently, connected

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Miscellaneous Petitions are closed.

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Index : Yes / No.

Internet : Yes / No.

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To

The Additional District Munsif Court, Aruppukottai



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B.PUGALENDHI, J.

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Common Order made in
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