



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 25.04.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

C.R.P.(MD)No.155 of 2018

and

C.M.P(MD).No.714 of 2018

1.Vaijayanthi,  
W/o.Chokkanathan Pillai,  
Administrator and President of  
Vellalar Uravinmurai Pathiaye patta,  
Samudhayakudam,  
Residing at  
Mela Ratha Veethi,  
Thiruppuvanam Kottai,  
Manamadurai Taluk,  
Sivagangai District.

M.Ramanathan (Died)

2.Balagurusamy,  
Son of Vasudeva Pillai,  
Secretary of Vellalar Uravinmurai Pathiaya patta  
Samudhayakudam,  
Resident at 7-G, Vasudeva Pillai St,  
Kezharatha Veethi Ward No.11, New Ward No. 4, Manamadurai,  
Thiruppuvanam Kottai,Sivagangai District.

3.Arumugam  
Shanmughanathan (died) ... Petitioner

-vs-

Kunjaram ... Respondent/Respondent

Prayer :- Petition filed under Section 227 of Constitution of India,  
to set aside the fair and decreetal order in I.A.No.67 of 2017 in  
O.S.No.144 of 2008, on the file of Additional District Munsif Court  
Cum Judicial Magistrate, Manamadurai dated 23.10.2017.

For Petitioners : Mr.S.Ramesh

For Respondent : Mr.N.Tamilmani

**ORDER**

The revision petitioners are the plaintiffs in the suit for redemption. The plaintiffs are the office bearers of the society by name Thiruppuvanam Kottai Vellallar Uravinmurai Sumuthaya Kudam.

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2. According to the plaintiffs, they are the owners of the property, the same has been mortgaged by the vendors of the plaintiffs in favour of the defendant. Hence, the suit for redemption of mortgage. However, the defendant contended that they have purchased the property from the vendors of the plaintiffs. Pending the suit, the Secretary of the Association had filed proof affidavit and marked the documents A1 to A3 before the Principal District Munsif Court, Manamadurai. Thereafter, the suit was transferred to Additional District Munsif Court, Manamadurai by way of order passed in TROP.No.2 of 2015. The plaintiffs have filed I.A.No.67 of 2017, seeking to eschew the evidence of P.W.1 on the ground that due to her old age, she is not in a position to remember the proceedings and she is also under going medical treatment. The said application was resisted by the defendant and contented that P.W.1, should appear for cross examination.

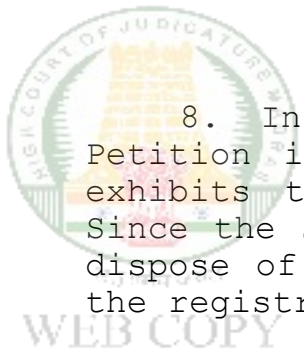
3. After hearing both parties, the trial Court came to the conclusion that though the plaintiffs are senior citizen, the present application has been filed only for the purpose of protracting the proceedings. The said order is under now challenge in the present Civil Revision Petition.

4. The learned counsel for the revision petitioners has contended that the third plaintiff was examined as P.W.1 before the Principal district Court, Manamadurai and thereafter he did not appear before the trial Court. Hence, the petitioners had sought for eschew evidence of P.W.1 and some other office bearers, who deposed on behalf him.

5. On behalf of the respondent, it is contended that the petitioners have not produced any medical evidence with regard to illness of P.W.1.

6. The suit has been filed by the association represented by the secretary of the Association, who is aged about more than 80 years and he appeared before the trial Court and filed a proof affidavit and marked three documents.

7. I am of the opinion that the plaintiffs can examine any other office bearers of the association to mark the documents. The order of the learned trial Court that this application has been filed to protract the proceedings, does not seems to be correct.



8. In view of the said observations, this Civil Revision Petition is allowed. The plaintiffs are said to have marked the exhibits through some other office bearers of the association. Since the suit is of the year 2008, the trial Court is directed to dispose of the suit on or before 31.12.2022 and report the same to the registry.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar(CS)

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To

The Additional District Munsif cum  
Judicial Magistrate, Manamadurai,  
Sivagangai District.

Copy to

The Section Officer, Judicial Section,  
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.N. TAMIL MANI, Advocate ( SR-21337[F]  
dated 26/04/2022 )

+1 CC to M/s.V. RAGHAVACHARI, Advocate ( SR-21780[F]  
dated 27/04/2022 )

C.R.P. (MD) No.155 of 2018

Dated: 25.04.2022

NSN(CO)

KB(13.06.2022) 3P 5C