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CRP.Nos.1368 & 1369 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM:

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

CRP.Nos.1368 & 1369 of 2014 and
MP.No.1 of 2014

CRP.No.1368 of 2014

1.Fathima Beevi
2.Johra Beevi
3.Abdul Khadar
4.Kamal Basha
5.Mustafa Kamal
6.Anwar Sathath
(Petitioners 1 to 6 represented by their power agent
Zarina)
7.S.Amirunnisa
8.M.Zahir Hussain
9.Minor M.Munvar Hussain
10.Minor Sheik Benazir
(minor petitioners 9 and 10 are represented by their
mother and guardian the seventh petitioner)
(petitioners 7 to 10 brought on record as LR's of the
deceased fifth petitioner viz Mustafa Kamal vide court
order dated 05.04.2022 made in CMP.No.20741
of 2017 in CRP.No.1368 of 2014)

... Petitioners

Vs.

1.R.Kannan
2.M.Sidique Hussain
(2nd respondent brought on record as LR of the
deceased fifth petitioner viz Mustafa Kamal vide
court order dated 05.04.2022 made in CMP.No.20741
of 2017 in CRP.No.1368 of 2014)

... Respondents



CRP.Nos.1368 & 1369 of 2014

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal orders passed in IA.No.556 of 2013 in OS.No.202 of 2010 dated 04.02.2014 on the file of the Court of Additional District Munsif, Chidambaram and to allow the said IA by allowing this civil revision petition.

For Petitioners : Mr.A.Muthukumar

For Respondents : No appearance

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1.Fathima Beevi
2.Johra Beevi
3.Abdul Khadar
4.Kamal Basha
5.Mustafa Kamal
6.Anwar Sathath
(Petitioners 1 to 6 represented by their power agent
Zarina)
7.S.Amirunnisa
8.M.Zahir Hussain
9.Minor M.Munvar Hussain
10.Minor Sheik Benazir
(minor petitioners 9 and 10 are represented by their
mother and guardian the seventh petitioner)
(petitioners 7 to 10 brought on record as LR's of the
deceased fifth petitioner viz Mustafa Kamal vide court
order dated 05.04.2022 made in CMP.No.20744
of 2017 in CRP.No.1369 of 2014)

... Petitioners

Vs.

1.R.Kannan
2.M.Sidique Hussain
(2nd respondent brought on record as LR of the
deceased fifth petitioner viz Mustafa Kamal vide
court order dated 05.04.2022 made in CMP.No.20744



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of 2017 in CRP.No.1369 of 2014)

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal orders passed in IA.No.563 of 2013 in OS.No.202 of 2010 dated 04.02.2014 on the file of the Court of Additional District Munsif, Chidambaram and to allow the said IA by allowing this civil revision petition.

For Petitioners : Mr.A.Muthukumar

For Respondents : No appearance

COMMON ORDER

These civil revision petitions have been filed to set aside the fair and decretal orders passed in IA.Nos.556 & 563 of 2013 in OS.No.202 of 2010 dated 04.02.2014 on the file of the Court of Additional District Munsif, Chidambaram, thereby dismissed the application to receive the additional documents and dismissed the application to reopen the case.

2. The fifth petitioner died and the petitioners 7 to 10 and the second respondent were brought on record as his legal representatives. The second respondent is residing in abroad and as such, he has not been served. Other legal heirs of the fifth deceased petitioner are representing before this Court. Therefore, service of notice to the second respondent is dispensed with. Insofar



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as the first respondent, though notice was served, no one appeared on behalf of him before this Court either in person or by pleader.

3. Heard, the learned counsel for the petitioners.

4. The petitioners are the plaintiffs. The petitioners filed suit for declaration and consequential injunction in respect of the suit schedule property. In order to prove their case, while pending the suit, after examination of evidences, they found certain documents in order to prove their title for suit schedule property and filed application to receive the same by reopening their evidence. The trial court dismissed the application for the reason that already the petitioners had marked Ex.A1 to Ex.A5 on their behalf which consists of earlier documents of the year 1943, 1964 and their evidence was closed on 26.09.2013. When the suit was posted for arguments, the petitioners have come forward with the present application on flimsy grounds. Further, the documents which are proposed to be marked are of the year 1943, 1951, 1965 and 1966 including the patta of the year 2006 are very much available in the hands of the petitioners earlier and they did not take any due diligence to mark the same.



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5. On perusal of records, revealed that those are all the documents sought to be received are more than 30 years old and registered documents. All the documents can be received in evidence even at the appellate stage. Therefore, there is no prejudice would be caused to the respondents if the applications are allowed and marked those documents.

6. In view of the above, the fair and decretal orders passed in IA.Nos.556 & 563 of 2013 in OS.No.202 of 2010 dated 04.02.2014 on the file of the Court of Additional District Munsif, Chidambaram are set aside and both the civil revision petitions are allowed. The trial court is directed to reopen the plaintiffs' evidence and receive those documents as additional documents and complete the trial within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

21.02.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

The Additional District Munsif,
Chidambaram

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21.02.2023