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CRP Nos.3958,3859,,3860 & 3861 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition Nos.3858,3859,3860 & 3861 of 2023

L.Muthu

... Petitioner in all CRPs

Versus

K.Krishna Mudhaliyar (Died)

1.K.Magalakshmi

2.M.Abimannan

3.M.Arumugam

...Respondents in all CRPs

COMMON PRAYER: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order and decreetal order dated 08.06.2023 made in I.A.Nos.73, 72, 70 & 71 of 2023 respectively in O.S.No.386 of 2008 on the file of the Court of Additional District Munsif, Tindivanam.

For Petitioner in all CRPs : Mr. T.Dhanasekaran

ORDER

The petitioner has filed these revision petitions to set aside the order and decreetal order dated 08.06.2023 made in I.A.Nos.73, 72, 70 & 71 of 2023 respectively in O.S.No.386 of 2008 on the file of the Court of Additional District Munsif, Tindivanam.

2. Heard, Mr. T.Dhanasekaran, learned counsel for the petitioner and

perused the materials available on record.



WEB COPY 3. The revision petitioner is the 3rd plaintiff in O.S.No.386 of 2023. To adduce evidence he has filed a petition in I.A.Nos.73, 72, 70 & 71 of 2023 before the learned Additional District Munsif, Tindivanam and that the said applications were dismissed by the learned trial Judge, holding that settlement deed was executed by D1 in favour of D2. If at all, any documents were said to be executed by D1 to D2, the defendant is bound to prove the same. Therefore the plaintiff need not to produce the document and need not adduce the evidence to that effect, therefore the trial Court dismissed the said applications.

4. The learned counsel for the revision petitioner submitted that though the duty is casted upon him, however he denied the title of the said document. Therefore, the burden is equally casted upon him to prove the same, otherwise his valuable right will be defeated.

5. Considering the fact and circumstances, now the case is become parted and at this stage, the 3rd plaintiff filed these applications. Though the suit was filed in the year 2008, but during the trial the defendant produced the settlement deed. Therefore, necessity arose for the plaintiff to adduce any



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evidence in respect of the said document. If he is not permitted to adduce evidence he would be put much hardships.

6. The learned counsel also pointed out that, during trial, the 2nd defendant submitted that her husband was not aware about the settlement deed and in such circumstances, the alleged settlement deed was not executed by her husband. If, opportunity is not given to prove the case, the rights of the petitioner will be defeated. But without considering all the legal aspects, the learned trial Judge erroneously set aside the application in I.A.Nos.73, 72, 70 & 71 of 2023 in O.S.No.386 of 2023.

7. Therefore, the findings given by the learned trial Judge is set aside and the I.As. are allowed and the revision petitioner is permitted to adduce additional evidence before the trial Court.

8. Accordingly, these Civil Revision Petitions are allowed. No costs.

06.11.2023

Index : Yes/No
Neutral Citation: Yes/No
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T.V.THAMILSELVI, J.

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To

1. The Additional District Munsif, Tindivanam.
2. The Section Officer,
VR-Section, High Court of Madras.

Civil Revision Petition Nos.3858,3859,3860 &
3861 of 2023

06.11.2023