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C.R.P.Nos.2904 & 2908 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM : JUSTICE N.SESHASAYEE

C.R.P.Nos.2904 & 2908 of 2019
and CMP.No.18836 of 2019 in CRP.No.2904 of 2019

Kwaja Mohaideen Maricar (died)
Rep by his LRs (Petitioners 4 to 6)

1.Fathima Zohara
2.Asaithambu
3.Ahamed Ansari
4.Hatheeja Natchiar
5.Hameed
6.Mohamed Ibrahim

... Petitioners in both CRPs /
Respondents / Defendants

Vs

Fareeda Beevi (Died)

1.Hidayathulla
2.Rahmathnisa
3.Habeed Nisha

.. Respondents in both CRPs /
Petitioners / Plaintiffs

Common Prayer : Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside order and decretal order dated 09.04.2019 made in I.A.No.4/2019 and I.A.No.3/2019 in O.S.No.6 of 2008 on the file of District Judge, Karaikal.



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For Petitioners : Mr.K.P.Jotheeswaran

For Respondents : Mr.S.Parthasarathy [RR1 to 3]

COMMON ORDER

These revisions arise out of a suit for declaration of title and for certain ancillary reliefs. One of the issues involved is proving a disputed marriage between a certain Ibrahim Maraicar and the first plaintiff. Pending suit, the first plaintiff died. To prove the same, the legal heirs of the first plaintiff took steps to examine Kaziar of Ahlas Sunnath Val Jamath Islamic Centre. However, this Kaziar did not appear, instead a certain Mohammed Saleem (P.W.6) appeared and introduced himself as an Accountant in the Office of the Kaziar, produced an authorisation letter and the marriage register.

2. Curiously enough, Kaziar himself later filed an affidavit before the Court that the aforesaid Mohammed Saleem was not his staff. It is in this circumstances, the defendants are said to have taken out applications to eschew the evidence of said Mohammed Saleem, and also an application in CrI.MP.No177/2019 to initiate action under Section 340 Cr.P.C. for perjury.



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3. Be that as it may, some four months after this drama, the plaintiffs again moved an application to examine the same Mohammed Saleem.

4. The counsel for the defendants/respondents would now submit that the plaintiffs are ready to examine Kaziar himself, but not Mohammed Saleem especially when he faced accusation of perjury already.

5. In view of the statement made by the respondents, there is no need to consider these revisions vis-a-vis its merit. So far as the evidence already tendered by Mohammed Saleem is concerned, that will stay on record, since any evidence, admissible evidence cannot be eschewed as per the provisions of the Evidence Act. And whether the evidence of P.W.6 needs to be acted upon depends on whether it is a perjured evidence. Hence, the issue involved in CrI.MP.No177/2019 is left open for the trial Court to take appropriate decision on the matter.

6. The revision petitions are disposed of accordingly. This Court finds that the suit is instituted in 2008, and it has now entered its fifteenth year of its



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institution, this Court directs the trial Court to dispose of the suit within a period of six months, excluding the intervening summer holidays 2023. No costs. Consequently, connected miscellaneous petition is closed.

27.03.2023

ds

To:

- 1.The District Judge
Karaikal.
- 2.The Section Officer
VR Section, High Court, Madras.



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N.SESHASAYEE.J.,

ds

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