



C.R.P.No.3991 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3991 of 2023

1. Gokula Rao
2. Shantha Kumari
3. Karunya Devi ... Petitioners

-Vs-

1. Prema Kumari
Shantha Kumari (died)
2. Lakshmi
3. Swadheshi Kumari
4. Vasantha Priya
5. Pappi
6. Janardhanan
7. Vijaya Samundeeswari ... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 28.08.2023 passed in I.A.No.5 of 2021 in O.S.No.215 of 2010 on the file of Addl. District Judge of Fast Track Court at Kanchipuram.



C.R.P.No.3991 of 2023

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Petitioner : Mr.Gokula Rao N. - Party in person

ORDER

Challenging the impugned order passed in I.A.No.5 of 2021 in O.S.No.215 of 2010 passed by the learned Addl. District Judge of Fast Track Court, Kanchipuram, the Revision Petitioners/defendants 5 to 7 preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioners filed an application in I.A.No.5 of 2021 in O.S.No. 215 of 2010 to recall D.W.1 in order to produce additional documents. That application was objected by the plaintiffs stating that to drag on the proceedings, they have filed the said application and proper reason was also not assigned for non-production of documents in time. On considering both side submissions, the trial judge held that the document, which he relied after filing of the suit, as such is



C.R.P.No.3991 of 2023

very much available at the first instance itself. Therefore, those documents need not be marked during the pendency of the proceedings. Accordingly, to drag on the proceedings, the said application was filed, thereby it was dismissed. Challenging the said findings, the defendants 5 to 7 preferred this Civil Revision Petition.

4. The 1st Revision Petitioner appeared in person, who is one of the defendants in the suit and he would submit that he was examined as D.W.1 and also cross-examined by the other side. During the cross-examination, he realised some of the documents are to be adduced in order to prove his defence, since because he was impleaded as 6th defendant in the suit after the death of his father. But, without considering his submissions, the trial judge dismissed the application. Hence, he prayed to set aside the findings of the trial judge.

5. Records perused. On perusal of records, it reveals that the 1st Revision Petitioner is the 6th defendant in the suit. During the pendency of trial proceedings, his father died and his legal heirs were impleaded as defendants 5 to 7 in the suit. Admittedly, the suit was filed in the year of 2010 and now the suit is ripe for trial. At the time of D.W.1 evidence,



C.R.P.No.3991 of 2023

he filed the said application to adduce evidence and mark documents.

Furthermore, after impleading the Revision Petitioners as defendants 5
to 7, the necessity arose for them to produce some documents. Therefore,
there is no delay in filing such documents and they were impleaded in
the suit only in the year of 2016. So, if proper opportunity is not given to
them, their valuable right to protect their property will be defeated. So, the
trial judge ought to have given one more opportunity to them before
closing evidence, but the trial judge failed to appreciate those facts and
erroneously dismissed the application, as such the findings observed by the
trial judge is liable to be set aside. Admittedly, now the evidence was
closed and no prejudice would be caused to the respondents by recalling
evidence of D.W.1. Therefore, this Court is inclined to set aside the
findings of trial judge in I.A.No.5 of 2021 in O.S.No.215 of 2010 and the
said application is ordered to be allowed. The 1st Revision Petitioner/D.W.1
is directed to cooperate with the proceedings and produce the
documents and examine himself within a period of two weeks after
resumption of Presiding Officer of trial court. Thereafter, the trial judge is
directed to proceed with the trial as per manner known to law and dispose
the case as early as possible. Accordingly, this Civil Revision Petition



C.R.P.No.3991 of 2023

is allowed. No costs. Consequently, connected Civil Miscellaneous Petition

is closed.

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20.11.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Addl. District Judge
(Fast Track Court), Kancheepuram.



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C.R.P.No.3991 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.3991 of 2023

20.11.2023