



C.R.P.No.3652 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM:

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

C.R.P.No.3652 of 2023

and

C.M.P.No.22921 of 2023

Ranganayaki (Deceased)

1.Munusamy

2.Arumugam

3.Vimala @ Alamelu

... Petitioners

-Vs-

1.Ramalingam

2.Jenarthanan

3.Vedanayagam

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order in I.A.No.340 of 2022 in O.S. No.66 of 2014 dated 11.07.2023 on the file of the Additional Sub Court, Tindivanam.

For Petitioner : Mr.J.Joseph Stalin



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ORDER

Challenging the impugned fair and decreetal order passed in I.A.No.340 of 2022 in O.S.No.66 of 2014, on the file of Addl. Sub-Court, Tindivanam, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

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

3. The learned counsel for Revision Petitioner would submit that before the trial court, to recall P.W.1, he filed an application under Order 18 Rule 17 of C.P.C. He would submit that after examination of P.W.1, he came to know that he is having a CD, pendrive and video footage in respect of deceased Ranganayaki ammal, so in order to prove their claim before the trial court, he has filed the said application. But the trial judge dismissed the application stating that after completion of cross-examination of P.W.1, the said application was filed, besides, the plaintiff has not stated earlier before the trial court that they are having those



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documents in their hand. So far, the defendants side evidence was not commenced and after completion of P.W.1 evidence, now they wanted to recall P.W.1 to adduce further evidence immediately, but the same was not allowed by the trial judge. Challenging the said order, the present Civil Revision Petition has been filed.

4. Records perused. On perusal of records, the suit is filed in the year of 2015 for partition by the plaintiff and now the trial was begin and P.W. 1 was examined. Immediately, they have filed an application to reopen and recall P.W.1 to mark additional documents, but the same was not allowed by the trial court for the reason that those particulars was not produced earlier and there is no reply statement filed for the written statement filed by the defendants. So, if opportunity is not given to the Revision Petitioners, their valuable right to defend their case will be defeated. Furthermore, the genuineness and validity of the document can be decided only after completion of evidence and not at the time of marking documents, which is a settled law, but it was not rightly appreciated by the trial judge, as such is erroneous one. Hence, the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed



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and the findings of the trial judge in I.A.No.340 of 2022 in O.S.No.66 of 2014 is set aside. The trial judge is directed to permit the Revision Petitioners to adduce evidence and mark documents and dispose the case as expeditiously as possible by giving opportunity to the other side. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Subordinate Judge, Tindivanam.



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T.V.THAMILSELVI, J.

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