



C.R.P. Nos.3827 & 3832 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 06.11.2023

CORAM

**THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI**

C.R.P.Nos.3827 & 3832 of 2023

and

C.M.P. No. 23716 of 2023

Kumudavalli

... Petitioner in  
both C.R.P.s

Vs

- 1 A.Vishnukanth
- 2 Amudhavalli @ Amirthavalli
- 3 M/s. Hare Krishna Agro Plantation  
Pvt. Ltd.,  
rep. by its Director
- 4 V.Pandiyarajan
- 5 Sudha
- 6 S.Sangeetha
- 7 S.Bagyam
- 8 Minor V.Saikrishnan  
rep. by his father natural guardian  
A.Vishnukanth Sakthivelayuthasamy  
@ Vaishnukanth Sakthivel

... Respondents in  
both C.R.P.s



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**PRAYER in C.R.P.No. 3827 of 2023 :** Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and final passed in I.A.No.6 of 2023 in O.S.No.471 of 2013 dated 10.07.2023, on the file of III Addl. District Judge, Coimbatore.

**PRAYER in C.R.P.No. 3832 of 2023 :** Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and final passed in I.A.No.7 of 2023 in O.S.No.471 of 2013 dated 10.07.2023, on the file of III Addl. District Judge, Coimbatore.

For Petitioners in  
both C.R.P.s : Mr.R.Singaravelan,  
Senior Advocate for  
Ms. V.Ambika

### **COMMON ORDER**

Challenging the impugned orders passed in I.A.Nos.6 and 7 of 2023 in O.S.No. 471 of 2013 passed by the learned III Addl. District Judge, Coimbatore, the revision petitioner/plaintiff preferred these Civil Revision Petitions.



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

3. Before the trial court, the Revision Petitioner filed a suit in O.S.No. 471 of 2013 for the relief of declaration to declare the sale deed as null and void and other consequential reliefs against the defendants 1 to 8. In that suit, the defendants contested the suit by filing their written statement. Now, the trial was begun and during the evidence of D.W.1 evidence, he denied that his father late K.Anandharaja died on 06.12.2004 at M/s.Ramakrishna Hospital, Coimbatore and he took treatment twice in the said hospital during September and October 2004 and again he was admitted on 18.11.2004 to 06.12.2004 and he died on 06.12.2004. So, to prove the treatment taken by his father, he filed the application to reopen and to adduce further evidence in respect of producing medical records pertaining to the treatment given to his father in the said Ramakrishna Hospital and the respondents have also filed their counter. On considering both side submissions, the trial judge held that now the case is posted for 3<sup>rd</sup>



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defendant evidence and at this juncture, the plaintiff evidence cannot be reopened. Accordingly, the said application was dismissed. Challenging the said findings, the plaintiff filed this Civil Revision Petition.

5. Records perused. On perusal of the order passed by the trial judge, it shows that without application of her mind, she dismissed those applications. Before the trial court, the plaintiff filed a suit for declaration to prove the title over the property and from the year of 2013, she is conducting the case before the trial court. However, during the evidence of D.W.1, he has denied that his father died on 06.12.2004 at M/s.Ramakrishna Hospital, Coimbatore and further he took treatment twice in the said hospital during September and October 2004 and again he was admitted on 18.11.2004 and subsequently, he died in the same hospital on 06.12.2014. So, to prove the death of her father at Ramakrishna Hospital, Coimbatore she filed an application to reopen the case for adducing additional evidence on her side and to that effect, she produced medical records. But, the trial judge dismissed the application stating that now the case is posted for evidence of 3<sup>rd</sup> defendant. Though the case is posted for 3<sup>rd</sup> defendant



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evidence, opportunity is to be given to the plaintiff, if not, his valuable right to defend the case will be defeated. Therefore, the findings rendered by the trial judge is liable to be set aside. Accordingly, these Civil Revision Petitions are allowed and the findings of the trial judge in I.A.Nos. 6 and 7 of 2023 in O.S.No. 471 of 2013 is set aside and both the applications are ordered to be allowed. The trial judge is directed to permit the Revision Petitioner to adduce evidence and mark documents and dispose the case by giving opportunity to the other side as per manner known to law. The Revision Petitioner is directed to pay batta to the evidence within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

**06.11.2023**

Index : Yes/No  
Speaking Order : Yes/No  
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To

III Addl. District Judge,  
Coimbatore.

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**T.V.THAMILSELVI, J.**

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