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C.R.P. Nos.3810, 3817 & 3835 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.3810, 3817 & 3835 of 2023

and

C.M.P.Nos.23631, 23648 & 23733 of 2023

1. Nirmala
2. Malliga
3. Santhi
4. Vijaya

... Petitioners in
all C.R.P.s

Versus

1. Chitra
2. Sumathi
3. Sankar
4. Malliga
5. Amutha
6. The Sub-Registrar,
Office of The Sub-Registrar,
Kallakurichi,
Kallakurichi Division and District.
7. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kallakurichi, Kallakurichi Division and Dt.



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8. The Village Administrative Officer,
Yemaper Village Administrative Office,
Kallakurichi Division and Dt.

... Respondents in
all C.R.P.s

PRAYER in C.R.P.No. 3810 of 2023: Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.233 of 2023 in O.S.No.112 of 2020 dated 07.08.2023, on the file of III Addl. District Court, Kallakurichi.

PRAYER in C.R.P.No. 3817 of 2023: Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.234 of 2023 in O.S.No.112 of 2020 dated 07.08.2023, on the file of III Addl. District Court, Kallakurichi.

PRAYER in C.R.P.No. 3835 of 2023: Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.232 of 2023 in O.S.No.112 of 2020 dated 07.08.2023, on the file of III Addl. District Court, Kallakurichi.

For Petitioner in
all C.R.P.s : Ms.N.Fidelia



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COMMON ORDER

Challenging the impugned orders passed in I.A.Nos.232 to 234 of 2023 in O.S.No.112 of 2020 dated 07.08.2023 passed by learned III Addl. District Judge, Kallakurichi, the Revision Petitioners/plaintiffs preferred these Civil Revision Petitions.

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 Petitioners/plaintiffs filed the said applications praying to reopen, recall and to receive additional documents. All those applications were dismissed by the trial judge holding that the document relied on by the plaintiffs is no way connected with the suit property. Moreover, all those documents have obtained long back and the same would have been filed at the time of filing of suit, however, after closure of evidence, she filed the applications to reopen and recall the evidence to mark the documents, as such is not acceptable one.



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Accordingly, the said applications were dismissed. Challenging the findings of trial judge, the present Civil Revision Petitions have been filed.

4. The learned counsel for Revision Petitioners would submit that due to lack of communication and due to non-availability of documents, they were not able to submit those documents at the time of filing suit and they are vital documents to prove their claim. Therefore, they have filed those applications to reopen, recall and to mark those documents. But, the trial judge failed to give opportunity and without considering their submissions, erroneously dismissed those applications. Hence, he prayed to set aside the findings of the trial judge in those applications.

5. Records perused. On seeing the entire facts and records, it reveals that the suit was filed in the year of 2020 challenging the settlement deed executed by their father and also prayed for partition and other consequential relief against the defendants in respect of three items of suit property. Now, it is an admitted fact as per the records, on both sides, evidence was adduced and at the time of argument, they came forward with



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the said applications praying to mark the document in respect of Survey No.61/05. On hearing both sides, the trial judge made an observation that the document, which they relied is not related to the suit property, but however, the contention of Revision Petitioners is that it is only pertaining to the suit survey No.61/5. Furthermore, she wanted to mark the Encumbrance Certificate, which is a public document and the same can be produced to prove their claim in respect of suit property. If opportunity is not given to them before the trial court, their valuable right to defend the case will be defeated. Furthermore, this court does not find any malafide intention on the part of plaintiffs, but without appreciating all the facts and circumstances the trial judge dismissed the application, as such is erroneous one and the same is liable to be set aside. Therefore, this court is inclined to set aside the findings rendered by the trial judge in I.A.Nos. 232 to 234 of 2023 in O.S.No.112 of 2020 and the applications to reopen, recall and to receive the documents are allowed. The trial judge is directed to take the applications on file after giving notice to the respondents/defendants and mark the documents and proceed with the trial as per manner known to law. The respondents/defendants are permitted to raise their objections if any in



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respect of those documents and the trial judge can give findings while disposing the main suit. Accordingly, these Civil Revision Petitions are allowed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

03.11.2023

Index : Yes/No

Speaking Order : Yes/No

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N.B. : Issue order copy on 06.11.2023

To

1. III Addl. District Judge,
Kallakurichi.
2. The Sub-Registrar,
Office of The Sub-Registrar,
Kallakurichi,
Kallakurichi Division and District.
3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kallakurichi, Kallakurichi Division and Dt.
4. The Village Administrative Officer,
Yemaper Village Administrative Office,
Kallakurichi Division and Dt.
5. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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