



C.R.P.Nos.4286 & 4287 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

C.R.P.Nos.4286 and 4287 of 2023

and

C.M.P.No.26093 of 2023

1.Palanisamy
2.P.Subramanian
3.P.Sellamuthu

Deivanai (Died)

4.S.C.Chellamuthu
5.Arunachalam
6.Thulasimani

... Petitioners in
both C.R.P.s

-Vs-

1.Arumugam
2.Sathishkumar
3.Madhankumar

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

Prayer in C.R.P.No. 4286 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 09.08.2023 made in I.A.No.03 of 2023 in O.S. No.152 of 2010 on the file of the Subordinate Court, Perundurai.

Prayer in C.R.P.No. 4287 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and



C.R.P.Nos.4286 & 4287 of 2023

decreetal order dated 09.08.2023 made in I.A.No.04 of 2023 in O.S. No.152 of 2010 on the file of the Subordinate Court, Perundurai.

For Petitioners : Mr.M.Guruprasad

COMMON ORDER

Challenging the impugned order passed in I.A.Nos.3 and 4 of 2023 in O.S.No.152 of 2010 passed by the learned Sub-Judge, Perundurai, the Revision Petitioners/defendants 1 to 7 preferred these Civil Revision Petitions.

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/defendants 1 to 7 have filed an application to reopen and recall P.W.1 for further cross-examination. Now the case is posted for arguments. At that time, the Revision Petitioners have filed the said applications for further cross-examination of P.W.1 as they omitted to ask certain questions. On hearing both side submissions, the trial judge dismissed the said applications holding that after closure of evidence, now the case is posted for arguments and at that time, he filed those applications, which cannot be entertained



C.R.P.Nos.4286 & 4287 of 2023

and no sufficient reason was adduced. Challenging the said findings, the

Revision Petitioners preferred this Civil Revision Petition.

4. Records perused. Admittedly, it is a suit for partition and now the trial was begun. The defendants also contested the suit. If opportunity is not given to them, their valuable right to defend the case will be defeated and it would not cause any prejudice to the plaintiffs. But, without considering their contentions, the trial judge erroneously dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, these Civil Revision Petition are allowed and the findings rendered by the trial judge in I.A.Nos.3 and 4 of 2023 in O.S.No.152 of 2010 is set aside and the said applications are ordered to be allowed. Both parties are directed to cooperate with the trial proceedings. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

30.11.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Subordinate Court, Perundurai.



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C.R.P.Nos.4286 & 4287 of 2023

T.V.THAMILSELVI, J.

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C.R.P.Nos.4286 & 4287 of 2023

30.11.2023