



C.R.P.No.124 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.11.2023

CORAM:

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

C.R.P.No.124 of 2023

and

C.M.P.No.1053 of 2023

Saraswathi (Died)

1.V.Rajendran
2.V.Gajendran
3.V.Bhaskaran
4.J.Kanniammal
5.Padmini

... Petitioners

-Vs-

1.Aadhimoolam
2.Annamalai
3.Dhanalakshmi
4.Gomathi

Devainai Ammal (died)

5.Manaormani Ammal
6.Chandra Raman
7.B.Dhanasekaran
8.Vijayan
9.M.Suresh
10.K.Kumar
11.A.L.Sureshkumar
12.S.Dhanasekaran
13.Gunasekaran
14.Murali
15.Maheswari

... Respondents



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Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order of dated 17.08.2022 passed by the learned Additional District Judge, Kancheepuram District at Chengalpattu in I.A. No.2 of 2022 in O.S. No.420 of 2008.

For Petitioners	: Mr.Manuraj
For Respondents	: Mr.S.Mohan - for R1 R2 - Refused, R3-Left, R4-Died R5 - Insufficient Address R6 to R11 - Served R12 to R15 - NA

ORDER

Challenging the impugned order and decreetal order passed in I.A.No.2 of 2022 in O.S.No.420 of 2008 passed by the learned Addl. District Judge, Kancheepuram District, the Revision Petitioners/plaintiffs preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioners have filed an application to direct the defendants to produce the sale deeds viz., original sale deed dated 10.07.1993, original sale deed dated 21.08.1993, executed by Ekambara Gramani Vagayara as admitted by D.W.1 V.Aadhimoolam in cross-examination and the original sale deed dated 19.10.1994 executed by Deivanai Ammal and others in the court within the time fixed by court.



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That application was contested by defendants stating that the plaintiffs have no right to seek the defendants to produce the documents. On hearing both sides, the trial judge held that even if the defendants are having the aforesaid documents, the plaintiffs cannot seek them to produce the same even though D.W.1 admitted in his cross-examination, thereby it was dismissed. Challenging the said findings, the plaintiff preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioners would submit that during the cross-examination, D.W.1 admits that he is having those documents and he is ready to produce the sale deed dated 10.07.1993 and other original sale deeds executed by Ekambara Gramani Vagayara and Deivanai Ammal and others. Therefore, he filed the said application to produce those documents. But, without considering their submissions, the trial judge erroneously dismissed the application. Hence, they prayed to set aside the findings of trial judge.

4. Admittedly, as per the evidence of D.W.1, he accepted to produce those documents. Hence, the revision petitioners/plaintiffs filed the said application praying to direct the 1st defendant to produce the aforesaid documents. But, the trial judge erroneously dismissed the application that



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witness cannot be compelled to produce documents. It is a settled proposition, to prove the defence, all the parties are entitled to obtain relevant documents from the other side. If at all, any document is available, the concerned party has to made endorsement to that effect. But, without giving opportunity, the premature findings given by the trial judge is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.2 of 2022 in O.S.No.420 of 2008 is set aside and the said application is ordered to be allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
rpp

To

The Additional District Judge,
Kancheepuram District at Chengalpattu



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T.V.THAMILSELVI, J.

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