



C.R.P.No. 4235 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4235 of 2023

and

C.M.P.No. 25791 of 2023

N. Madhesh

.. Petitioner

Vs

1.N. Govindan @ Govindaraj

2.V. Subramani

3.M. Subramani

4.The Sub-Registrar, Veppanapalli,
The Sub-Registrar Office, Veppanapalli Town,
Krishnagiri Taluk and District.

5.R. Kokila

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 14.09.2023 made in I.A.No.15 of 2023 in O.S.No.174 of 2019 on the file of the Additional District Judge, Krishnagiri.

For Petitioner : Mr. T. Arockia Dass



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For Respondent : Mr. N. Manokaran



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ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.15 of 2023 in O.S.No.174 of 2019 on the file of the Additional District Judge, Krishnagiri, the plaintiff has preferred this revision.

2. Before the trial Court, the plaintiff / petitioner herein filed an application under Section 151 of CPC to re-open the case and to examine the 4 defendant as one of the witness. He assigned the reason that on the side of the defendant, there was a Panjayat Muchalika was produced at the time of trial and marked as Ex.P.10 but the document was not mentioned in the written statement and the said document is a fabricated one, to that effect, he wants to adduce evidence. He also wants to examine D4, who is a Sub Registrar in respect of registration of the sale deed dated 15.12.2020 in favour of D5 / fifth respondent herein. But the application was strongly opposed by the plaintiff / petitioner herein stating that after the closure of evidence, when the case is posted for arguments, the plaintiff / petitioner



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herein come forward with the application to fill up the lacuna, the reason assigned for summoning the D4 as such also not been properly explained since he is a party to the proceeding and he cannot be compelled to examine as a witness on the side of the plaintiff. With regard to Panjayat Muchalika, the Sub Registrar is not a proper party to speak about the veracity of the said document. Accordingly, the application was dismissed.

3. Challenging the said finding, the petitioner has filed this revision petition.

4. The learned counsel for the revision petitioner submits that while drafting the affidavit, the plaintiff / petitioner herein categorically stated that to disprove the content of the Muchalika, he wants to adduce witness but erroneously, typed as he wanted to examine D4 to that effect.

5. The learned counsel appearing for the respondents / defendants submit that as per the affidavit, plaintiff / petitioner herein wants to examine D4 in respect of the Muchalika, as such he is not right person to



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speak about the said document and the trial Judge rightly observed and hence, needs no interference.

6. On considering both submissions and on perusal of the records, this Court finds that at the time of the trial, during the examination of the defendant side witness, the said Muchalika was adduced. Admittedly, there is no proper averments in the written statement, therefore, opportunity is to be given to the plaintiff / petitioner herein to disprove the document. Considering the entire affidavit filed by the plaintiff / petitioner herein, he wants to examine witness to disprove the Muchalika and also to examine D4, Sub Registrar in respect of registering the sale deed since Registrar remained ex parte during the proceedings.

7. Therefore, the reason assigned by the petitioner is justifiable. Accordingly, I.A.No.15 of 2023 in O.S.No.174 of 2019 on the file of Additional District Judge, Krishnagiri is set aside.



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8. In the result, the Civil Revision Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed. Both the parties are directed to cooperate for the proceeding. The Trial Judge namely Additional District Judge, Krishnagiri is directed to dispose the suit within three months from the date of receipt of copy of this order.

17.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Additional District Judge, Krishnagiri.



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T.V.THAMILSELVI, J.

AT

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C.M.P.No. 25791 of 2023

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