



C.R.P.Nos. 4800, 4802 & 4803 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

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

C.R.P.Nos. 4800, 4802 & 4803 of 2023

and

C.M.P.No. 28496 of 2023

1. Kamalam
2. Krishnamurthi
3. Karthikeyan

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

-Vs-

1. Usharani
2. Prema

Lathamani (died

4. Malliga

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

Prayer in C.R.P.No. 4800 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the common decretal order passed in I.A.No.2 of 2022 in O.S.No.77 of 2018 before the Sub-Court, Omalur.

Prayer in C.R.P.No. 4802 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the common decretal



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order passed in I.A.No.3 of 2022 in I.A.No.2 of 2022 in O.S.No.77 of 2018 before the Sub-Court, Omalur.

Prayer in C.R.P.No. 4803 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the common decreetal order passed in I.A.No.4 of 2022 in I.A.No.2 of 2022 in O.S.No.77 of 2018 before the Sub-Court, Omalur.

For Petitioner in
all C.R.P.s : Mr.B.Vijayakumar

COMMON ORDER

Challenging the impugned common order passed in I.A.No.2 of 2022, I.A.No.3 of 2022 in I.A.No.2 of 2022 and I.A.No.4 of 2022 in I.A.No.2 of 2022 in O.S.No. 77 of 2018 passed by the learned Sub-Judge, Omalur respectively, the Revision Petitioners/defendants 1 to 3 have preferred these Civil Revision Petitions.

2. Since the relief claimed by the Revision Petitioners challenging the common order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioners/defendants 1 to 3



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filed three applications to reopen the case for further examination of witness on the side of defendants 1 to 3 and to reopen and recall the P.W.1 for further cross-examination. All the applications were dismissed by the trial judge holding that both side evidence was already examined and to drag on the proceedings, now the revision petitioners/defendants filed the said application. Challenging the said findings, the Revision Petitioners preferred these Civil Revision Petitions.

4. Admittedly, as on date, the evidence was completed and at this stage, the defendants 1 to 3 filed the said applications to reopen the case for further examination of witness and also to reopen and recall P.W.1 for further cross-examination. According to the 1st Revision Petitioner, as a second wife, they are conducting the case in respect of the suit property and plaintiffs are the legal heirs, but as on date, they are having valid defence to prove their case. Now, they wanted to produce the gift deed dated 20.02.2015 marked as Ex.A3 and to that effect they produced the copy of gift deed. Admittedly, one of the party is aged about 76 years and if opportunity is not given to them, their valuable right to defend the case will be defeated. But without giving opportunity, the trial judge dismissed the applications, as such is erroneous one and the same is liable to be set



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aside. Accordingly, these Civil Revision Petitions are allowed and the findings of the trial judge observed in the applications filed in (1) I.A.No.2 of 2022, (2) I.A.No.3 of 2022 in I.A.No.2 of 2022 and (3) I.A.No.4 of 2022 in I.A.No.2 of 2022 in O.S.No. 77 of 2018 is set aside and the said applications are ordered to be allowed. The revision petitioners are directed to cooperate with trial proceedings. The trial judge is directed to proceed with the trial and dispose the case as early as possible within a period of three months, since the parties are aged more than 70 years old. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19.12.2023

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

The Sub-Judge, Omalur.

T.V.THAMILSELVI, J.



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