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C.R.P(PD).Nos.4638 and 4637 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

**CORAM
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

C.R.P(PD).Nos.4638 and 4637 of 2023

1. A.Chandrasekaran

2. Vathchala

3. Geetha

4. Chennammal
petitions

. .. Petitioners in both

Vs

R.Prema
petitions

...Respondents in both

Common Prayer : Civil Revision Petitions filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 14.08.2023 passed in I.A.Nos. 1 and 2 of 2023 in O.S.No.192 of 2015 on the file of the District Munsif, Chengam.

For Petitioners : M/s.V. Divia Bharathi
(in both petitions)

COMMON ORDER

The petitioners have filed these petitions to set aside the fair and decretal order dated 14.08.2023 passed in I.A.Nos.1 and 2 of 2023 in



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O.S.No.192 of 2015 on the file of the District Munsif, Chengam.

2. Heard, M/s.V.Divia Bharathi, learned counsel for the petitioners and perused the materials available on record.

3. Before the trial Court, the petitioners have filed I.A.Nos.1 to 3 of 2023 under Section 151 of CPC for re-opening the plaintiffs side evidence, and filed under Order XVIII, Rule 17 of CPC for Re-calling PW.1 and the petition filed under Order VII, Rule 14(2) of CPC to receive Additional Document in evidence through P.W.1. The plaintiffs have filed the suit for declaration of their title over the suit schedule property and for delivery of vacant possession, and the evidence of both side has been completed on 14.02.2023 and the suit has been posted for arguments on 27.02.2023, that one Rajan, paternal uncle of the 1st petitioner had executed unregistered “Deed of Right” dated 15.04.1971 in favour of the 1st petitioner's father Argumuga Chettiyar, that the said deed was not available at the time of filing of the suit. The applications were strongly resisted by the defendant stating that before completion of evidence the plaintiffs ought to have vigilant to adduce the documents, but after completion of the evidence filing such documents would create new factum rights. Considering both sides submissions, the learned trial Judge dismissed all the applications stating that



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at belated stage the applications were filed, and when the case is posted for arguments it cannot be permitted. Aggrieved that the plaintiffs have preferred these revision petitions.

4. The learned counsel for the revision petitioners submitted that, now the case is posted for arguments and necessity arose for them to produce the deed of right dated 15.04.2021, as un-registered one, based on that the properties were divided on 19.10.1926. Accordingly, the present document also came into force, therefore, necessity arose for them to produce the documents.

5. On a perusal of the records, it reveals that, the documents from the year 1926 were relied on by the plaintiffs. Admittedly, the additional document is of the year 1971, which is an unregistered one, but if at all any terms between the parties can be proved by adducing proper evidence from the year 1926 onwards, the same can be permitted so that the plaintiff can produce the document of the year 1971.

6. On considering the entire cause of action of the suit clubbed with facts and circumstance and arises from the year 1926. The learned trial Judge



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failed to appreciate the same and erroneously dismissed, which needs interference by this Court. Now the case is posted for arguments therefore if opportunity is not given to the petitioners, their valuable right to defend their case will be defeated. Therefore, the findings rendered by the learned trial Judge in I.A. Nos 1 & 2 of 2023 are set aside. Liberty is granted to put forth their contention while marking of the said documents and the validity of the documents can be decided only after completion of the trial. The parties are directed to co-operate for the proceedings.

7. Accordingly, these Civil Revision petitions are Allowed. There shall be no order as to costs.

14.12.2023

Internet : Yes/No
Index : Yes/No
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To

1. The learned District Munsif, Chengam.
2. The Section Officer,
VR Section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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