



C.R.P.No. 4858 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4858 of 2023

and

C.M.P.No. 28763 of 2023

Arulmurugan

.. Petitioner

Vs

1.Govindammal

2.Vasanthi

3.Poongodi

4.Ranchanadevi

5.Ramadevi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 12.10.2023 passed in I.A.No.4 of 2023 in O.S.No.31 of 2016 on the file of the Principal District Judge at Dharmapuri.

For Petitioner : Mr. V. Sakkarapani

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.4 of 2023 in O.S.No.31 of 2016. The defendant has preferred this revision.



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2. Before the trial Court, the defendant / petitioner herein filed the application seeking permission to examine plaintiffs 1, 2, 3 and 5 as defendant's side witnesses since they did not appear to give evidence. Only the fourth plaintiff alone gave evidence as P.W.1. So he is seeking permission to examine them as a witnesses on his side. That application was resisted by the plaintiffs / respondents herein denying the defendant / petitioner's contention. On hearing both sides, the trial Judge held that the defendant / petitioner herein cannot compel the plaintiffs 1, 2, 3 & 5 to give evidence on his side.

3. Admittedly, the case was filed by the plaintiffs/respondents herein for the relief of partition and other consequential relief. Only fourth plaintiff alone has given evidence but the contesting defendant by relying the Will, is claiming right. Now the case is posted for arguments, at this stage the petitioner herein filed another application to produce witnesses on his side but the trial Judge dismissed the present application. Aggrieved by the said finding, the defendant/petitioner herein has preferred this revision.



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4. On perusal of the records, the plaintiffs 1, 2, 3 and 5 is not incline to appear before the Court. Therefore, the observation made by the trial Judge that the witnesses cannot be compelled to be examined as witnesses, needs no interference but the trial Judge is entitled to draw the adverse inference for their non appearance to adduce evidence.

5. With the above observation, the Civil Revision Petition is closed. Consequently, connected miscellaneous petition is also closed. No costs.

20.12.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The Principal District Judge at Dharmapuri.



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T.V.THAMILSELVI, J.

AT

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