



C.R.P.(PD)(MD) Nos.1216 and 1217 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD) Nos.1216 and 1217 of 2022

and

C.M.P(MD) No.4942 of 2022 in C.R.P(MD) No.1216 of 2022

C.R.P(MD) No.1216 of 2022:

T.Krishna Ramanujam

... Petitioner/Petitioner/10th Defendant

-vs-

1. S.Venkatesan
2. Jeevanandham
3. Kalaiselvi
4. Rajendran
5. Sivakumar
6. Thirunavukarasu
7. Kavitha
8. Loganathan
9. Elangovan
10. Manivannan
11. Sadhanandham
12. Padmini

.... Respondent/Respondent/Plaintiff

.... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 09.05.2022 passed by the 1st Additional District Judge (PCR), Thanjavur, in I.A.No.4 of 2021 in O.S.No. 131 of 2015.



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For Petitioner : Mr.A.Senthil Kumar
For Respondents : Mr.M.Karuppasamy – For R1
: Mr.L.Jeen Felix – For R2

C.R.P(MD) No.1217 of 2022:

T.Krishna Ramanujam

... Petitioner/Petitioner/10th Defendant
-VS-

1. S.Venkatesan
2. Jeevanandham
3. Kalaiselvi
4. Rajendran
5. Sivakumar
6. Thirunavukarasu
7. Kavitha
8. Loganathan
9. Elangovan
10. Manivannan
11. Sadhanandham
12. Padmini

.... Respondent/Respondent/Plaintiff

.... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 09.05.2022 passed by the 1st Additional District Judge (PCR), Thanjavur, in I.A.No.5 of 2021 in O.S.No. 131 of 2015.

For Petitioner : Mr.A.Senthil Kumar
For Respondents : Mr.M.Karuppasamy – For R1
: Mr.L.Jeen Felix – For R2



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COMMON ORDER

The present Civil Revision Petitions have been filed by the 10th defendant in the suit for declaration of title and permanent injunction.

2. The evidence on the side of the defendants was closed on 20.01.2021. Thereafter, the 10th defendant has filed I.A.No.4 of 2021 to reopen the suit for producing certain documents on their side. The 10th defendant has also filed I.A.No.5 of 2021 to recall himself to mark certain documents. Both these applications were dismissed by the trial Court on 09.05.2022 on the ground that the petitioner has not mentioned about the documents which he had proposed to file. The trial Court has further found that the petitioner has not even filed any application for reception of documents on the side of the defendants. The said order is under challenge in the present revision petitions.

3. The learned counsel for the petitioner submits that the applications seeking leave of the Court for reception of documents have not been filed and due to the mistake of the counsel, the parties should not suffer.



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4. However, the learned counsel appearing for the respondents contended that the evidence on the said defendants has been closed as early as on 20.01.2021 and thereafter, the defendants had taken adjournments. The present applications are incomplete without mentioning the character of documents that are proposed to be filed for seeking leave of the Court. The petitioner has not explained reasons for not filing the documents along with the written statement. Hence, the present applications which have been filed at a belated stage, cannot be accepted.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. A perusal of the affidavit filed by the 10th defendant in I.A.Nos.4 of 2021 and 5 of 2021 would clearly indicate that only for the purpose of marking certain documents, the 10th defendant has filed these applications to reopen the evidence on the side of defendants and to recall himself as a witnesses. It is seen that clearly there is a mistake on the part of the counsel in not filing the applications to indicate the documents which are proposed to be filed.



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7. The evidence on the side of the defendants has been closed on 20.01.2021 and the case was posted for arguments. So far, the arguments on the side of the plaintiff have not commenced. Under these circumstances, in the interest of justice, I find that the orders passed by the Court in these applications are to be set aside and remitted back to the file of the learned 1st Additional District Judge, (PCR), Thanjavur.

8. In view of the above said facts, this Court is inclined to pass the following order:

(i) These Civil Revision Petitions are allowed and the matter is remitted back to the file of the learned 1st Additional District Judge, (PCR), Thanjavur;

(ii) The revision petitioner is at liberty to file an application seeking leave of the Court for the reception of additional documents indicating the nature of documents within a period of Ten (10) days from the date of receipt of a copy of this order. If no such application is presented within a period of ten (10) days from the date of receipt of a copy of this



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order, the order passed in both the revision petitions will stand vacated automatically without any reference to this Court;

(iii). In case, any such application is filed in time, the learned 1st Additional District Judge (PCR), Thanjavur, is directed to consider all the applications together and pass orders on merits and in accordance with law within a period of four (4) weeks thereafter.

(iv) The 10th defendant alone can be recalled and his deposition shall be restricted with regard to the documents that are proposed to be filed.

9. With the above said observations, both the Civil Revision Petitions are allowed to extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

10.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The 1st Additional District Judge, (PCR),
Thanjavur.



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R.VIJAYAKUMAR,J.

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