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C.R.P(MD)No.1870 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1870 of 2023

and

C.M.P(MD)No.9397 of 2023

1.P.Varatharajammal

2.Vanitha

... Petitioners/Defendants 1 and 2

Vs.

1.Lakshaya

... 1st Respondent/Plaintiff

2.V.Seetharaman

... 2nd Respondent/3rd Defendant

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 10.08.2022 and on 14.09.2022 passed in O.S.No.80 of 2021 on the file of the Additional District Court, Virudhunagar by allowing this Civil Revision Petition with costs.

For Petitioner

:Mr.A.Sivaji

ORDER

This civil revision petition is preferred as against the docket order dated 10.08.2022 and on 14.09.2022 passed in O.S.No.80 of 2021 by the learned Additional District Judge, Virudhunagar.



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2. According to the petitioners/defendants, the first respondent/plaintiff filed a suit in O.S.No.80 of 2021 before the Additional District Court, Virudhunagar, for partition and declaration. While so, the Court below without following the provisions under Order XVIII Rule 1 of C.P.C., the right to begin the case is only on the plaintiff and even as per Section 101 of Evidence Act, a person based on his facts to prove his case by letting in evidence, erroneously ordered the defendants to begin with the evidence, which is not permissible under law.

3. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. On perusal of the docket order, it is seen that the trial Court without adducing any reason directed the defendants to commence their evidence. Under Order XVIII Rule 1 of C.P.C., recognizes the general rule that the plaintiff in a suit must prove his case. Therefore, the docket order dated 10.08.2022 and on 14.09.2022 passed in O.S.No.80 of 2021 by the learned Additional District Judge, Virudhunagar, is hereby set aside and the matter is remitted back to the Court below to reconsider as to who has to lead evidence in consonance with Sections 101 to 114 of the Indian Evidence Act and Order XVIII Rule 1 of C.P.C.



5.With the above observation, this Civil Revision Petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

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02.08.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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To

- 1.The Additional District Judge,
Virudhunagar.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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