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C.R.P.Nos.1691 to 1693 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE **V. LAKSHMINARAYANAN**

C.R.P.Nos.1691 to 1693 of 2024
and
C.M.P. No.8917 of 2024

1.G.Rubella
2.D.Victor Rajapandiyam

.. Petitioners in
all C.R.Ps

VS

1.Rajammal
2.G.M.K.Kondappan
3.Loganayagi
4.Vasuki
5.D.Santhi
6.P.Arumugam
7.Komarayal
8.M.Velumani
9.Mageshwari
10.Aiyappan
11.Radhiga

.. Respondents in
all C.R.Ps

Petitions filed under Article 227 of the Constitution of India against the fair and decretal order dated 12.03.2024 made in I.A. Nos.15, 13 and 14 of 2024 in O.S. No.65 of 2019 on the file of the III Additional District Court, Erode at Gobichettipalayam.

For Petitioners : Mr.T.L.Thirumalaisamy

For Respondents : Mr.N.Manokaran for R1



C.R.P.Nos.1691 to 1693 of 2024

COMMON ORDER

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Three revisions arise against orders refusing to re-open, re-call and receive additional evidence.

2. The suit was filed for declaration that the sale deed executed by the plaintiffs in favour of first defendant, the second document executed by second defendant to fifth defendant, and the third document executed by defendants 2 to 5 in favour of defendants 6 to 11 on 06.06.2019 are null and void. Pending the suit, the second plaintiff claimed that he faced charges in certain criminal cases which ended in acquittal, and therefore he wanted the Court to receive those documents. Prior to this litigation, he submitted that he had sustained injury on his leg and wanted to be examined by an Advocate Commissioner. This Court in C.R.P. No.3084 of 2023 modified the order permitting the second petitioner to depose location convenient for the second petitioner. Further, a direction was given that the judgment must be rendered on or before 26.04.2024.

3. After having enjoyed the benefit of the order, the revision petitioners filed I.A. Nos.13 to 15 of 2024 for the aforesaid reliefs. The defendants filed a counter and opposed the applications. They



C.R.P.Nos.1691 to 1693 of 2024

submitted that they are not parties to the proceedings and the documents sought to be filed are irrelevant for the purpose of the case.

4. The learned Judge went into the merits of those documents and rejected the applications filed by the revision petitioners.

5. At the stage of consideration of application under Order XVIII Rule 17 C.P.C., the issue of going into relevancy of the documents would not arise.

6. Mr.N.Manokaran, learned counsel for the first respondent relied upon Order VII Rule 14 C.P.C. to plead that the Court is empowered to go into the relevancy of the documents and the documents can be received in evidence only after leave is obtained. The question of considering application under Order VII Rule 14 C.P.C. does not arise here because the Court would first have to re-open and thereafter recall the evidence, and only then deal with the application under Order VII Rule 14 C.P.C. The procedure followed by the Court in this case seems to be in reverse.

7. Be that as it may, as the matter is still at the stage of



C.R.P.Nos.1691 to 1693 of 2024

arguments, by receiving the documents, no prejudice would be caused to either party. If the documents are received, the plaintiffs will be precluded from pleading that principles of natural justice were not complied with. They will not have an occasion to plead in the appeal that they were not given opportunity to submit the said documents.

8. In order to give a further opportunity to the petitioners, the order passed by the learned III Additional District Judge in I.A. Nos.13 to 15 of 2024 dated 12.03.2024 are set aside. However, the petitioners are put on certain terms. For each of the application, the petitioners shall pay a sum of Rs.5,000/- on or before 22.04.2024. On such payment, the evidence of P.W.1 will stand re-opened and he will be permitted to file the additional documents. He has to commence the oral evidence on 23.04.2024 and the first respondent will complete the cross-examination on 23.04.2024 itself. The time to pronounce the judgment is extended from 26.04.2024 to 30.04.2024. It is made clear that in case the costs are not paid or if P.W.1 does not present himself for cross-examination on 23.04.2024, this order will not enure in their favour. The learned trial Judge is requested to accept a Web Copy of the order and proceed accordingly.



C.R.P.Nos.1691 to 1693 of 2024

9. With the above observation, these civil revision petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.04.2024

Index:Yes/No
Neutral Citation:Yes/No
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Note: Issue Order Copy on 22.04.2024

To

The III Additional District Judge,
Erode at Gobichettipalayam.



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C.R.P.Nos.1691 to 1693 of 2024

V. LAKSHMINARAYANAN,J.

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C.R.P.Nos.1691 to 1693 of 2024

18.04.2024