



C.R.P.Nos.4131 to 4133 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.Nos.4131 to 4133 of 2024

T.D.Ravindran

.. Petitioner in
all C.R.Ps.

Vs.

1. T.K.Devanatha Reddiar
2. N.Gowri
3. D.Muthunarayanan
4. C.Laitha
5. R.Amarajothi
6. M.Revathi
7. Priyadarshini
8. Preethika
9. Karunandham

.. Respondents in
all C.R.Ps.

Prayer: Petitions under Article 227 of the Constitution of India to set aside the order dated 27.08.2024 made in I.A.Nos.123, 124 & 125 of 2024 in O.S.No.149 of 2018 on the file of I Additional District and Sessions Judge, Cuddalore.

For the Petitioner : Mr.R.Gururaj

For the Respondents : Mr.A.K.Sriram
Senior Counsel
For Mr.M.R.Thangavel
for Respondent-1

Mr.V.Balamurugane
for Respondent-3



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ORDER

A sting operation conducted by the son on the father is sought to be introduced as a document in the suit.

2. O.S.No.149 of 2018 is a suit for partition and separate possession. Pleadings had been completed. The parties went for a trial and the trial is also over. It is now at the stage of arguments. At that stage, the learned Judge had suggested, considering the age of the father and the relationship between the parties, that they negotiate a settlement. In accordance to the views expressed by the learned trial Judge, the plaintiff seems to have approached his father, the first defendant. During the course of conversation, he had surreptitiously recorded the conversation that had taken place between him and his father. Thereafter, he claims that the first defendant father had made certain admissions during the course of the conversation and hence, they should be received in evidence.

3. In order to produce the said conversation before the Court, he filed I.A.No.123 of 2024 to re-open the evidence of the plaintiff,



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I.A.No.124 of 2024 to recall himself and I.A.No.125 of 2024 to condone the delay in filing the documents, namely transcriptions of the conversation between himself and the first defendant. The learned Judge received a counter from the first respondent and proceeded to dismiss the said petitions. Against which, the present civil revision petitions.

4. I heard Mr.R.Gururaj for the civil revision petitioner, Mr.A.K.Shriram for the first respondent and Mr.Balamurugane for the third respondent.

5. The narration of the aforesaid facts would go to show that the document which is sought to be introduced by the plaintiff had come into being on account of a noble suggestion that had been made by the learned District Judge to settle the matter. It is not open to a party to take advantage of the suggestion made by the Court to settle the issue, to create records and that too, surreptitiously. I have to appreciate the audacity of the plaintiff, having done so, to come up with an application hoping that the Court will receive the said



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documents.

6. Mr.Gururaj relies upon *Magraj Patodia v. R.K.Birla* [1971 (2) SCR 118] to urge that even if an evidence is improperly procured, the same is admissible in evidence subject to its relevancy and proof. Therefore, he argued that the plaintiff is entitled to introduce the said record. The said plea is stoutly opposed by Mr.A.K.Shriram.

7. I have carefully considered the submissions and have gone through the judgment.

8. Here is a suit presented in the year 2020, which is suffering an order of this Court, for disposal at an early date. On account of the suggestions made by the Court, the plaintiff has created the document as aforesaid. The judgment of the Supreme Court relied upon by Mr.Gururaj applies to a situation where documents which had come into force prior to the suit, though improperly procured. This proposition does not apply to the facts of the present case. This is especially so when the first defendant, namely the father, had not



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entered into the witness box. It is always open to Mr.Gururaj to take advantage of the failure of the first defendant to enter into the witness box and if it is permissible to request the Court to draw adverse inference against the first defendant.

9. Neither the trial Court nor can this Court be a party to an act of a litigant to procure a document surreptitiously under the noble suggestion made by the learned Judge to settle a family issue. Further more, the order to reopen, recall and to let in additional documents are discretionary in nature and unless and until discretionary power has been utilised in a perverse manner, it is not subject to revision. I do not find any perversity in the order. I see no reason to interfere with the order. Accordingly, these civil revision petitions are dismissed. This Court adhere to the directions of this Court for expeditious disposal of the suit without any demur. There shall be no order as to costs. Consequently, C.M.P.No.22663 of 2024 is also dismissed.

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Index : Yes/No
Neutral Citation : Yes/No
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V.LAKSHMINARAYANAN,J

(kpl)

To

The I Additional District and Sessions Court
Cuddalore.

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