



C.R.P.(MD)No.502 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.502 of 2022
and C.M.P.(MD).No.2171 of 2022

1.M.Sekar (Died)

2.Meenambal

3.Nagarani

4.Tamilselvi

5.Muthupandi

... Revision Petitioners

(Petitioners 2 to 5 are brought on record as Lrs of the deceased sole Petitioner vide Court order, dated 14.11.2024 made in C.M.P.(MD).Nos. 15547, 15549 and 15551 of 2024)

Vs.

Sri Sakthi Mills,
Managing Director,
Sri S.Sakthi,
S/o Sundarrajan,
Jeeva Nagar 1st Street,
Madurai.

... Respondent/Respondent/Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.53 of 2021 in A.S.No.2 of 2021, dated 27.01.2022, on the file of the Sub Court, Paramakudi, Ramanathapuram District, by allowing the said application for marking the document of the Tahsildar while deciding the appeal.



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For Petitioners : Mr.B.Ramamoorthi

For Respondents : Mr.S.Srinivasa Raghavan

ORDER

This revision petition has been filed to set aside the order passed in I.A.No.53 of 2021 in A.S.No.2 of 2021, dated 27.01.2022, on the file of the Sub Court, Paramakudi, Ramanathapuram District, by allowing the said application for marking the document of the Tahsildar while deciding the appeal.

2.The facts in brief:

Suit in O.S.No.28 of 2018 was filed by the deceased revision petitioner herein against the respondent seeking the relief of declaration and for consequential injunction. Suit came to be dismissed. Against which, A.S.No.2 of 2021 is taken up. Pending the proceedings I.A.No.53 of 2021 was filed by the revision petitioner herein under Order 41 Rule 27 CPC to permit the additional evidence. That came to be dismissed by the appellate Court. Against which this revision petition is preferred.

3.Heard both sides.



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4.Only short point arises for consideration. The order impugned in this revision was passed without taking A.S.No.2 of 2021. It is settled procedure of law that when ever Order 41 Rule 27 CPC is filed, it must be taken along with the appeal. Then only whether the proposed evidence is required for rendering a just decision can be taken. But, hereby violating the above said procedure it appears that the appellate Court has taken up I.A.No.53 of 2021 separately. Even in the order, there is no indication for deviating the procedure.

5.Even though the learned counsel for the respondent would submit that the document which is proposed to be filed is inadmissible in evidence, this is too a premature stage to make any observation of evidentiary value of particular document and evidence to be given by the concerned authority.

5.So due to the procedure violation, I am of the considered view that the matter must be remitted back to the appellate Court with direction to restore the I.A.53 of 2021 to its file and take up the matter



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along with the main appeal.

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6. Accordingly, the matter is remitted back to the appellate Court.

The appellate Court shall restore the I.A.53 of 2021 to its file and take up the matter along with the main appeal.

7. With the above said directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The Subordinate Judge, Paramakudi.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA,J.

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