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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **N.SENTHILKUMAR**

CRP(MD)Nos.584 and 585 of 2021
and
C.M.P(MD)Nos.3163 and 3164 of 2021

1.James
2.Victor
3.Jeyaraj ... Petitioners in both petitions

Vs

Thilaga ... Respondent in both petitions

Prayer in CRP(MD)No.584 of 2021: This Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 11.03.2020 in I.A.No.536 of 2019 in O.S.No.33 of 2010 made on the file of the Sub Court, Kovilpatti.

Prayer in CRP(MD)No.585 of 2021: This Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 11.03.2020 in I.A.No.533 of 2019 in O.S.No.33 of 2010 made on the file of the Sub Court, Kovilpatti.

(in both petitions)
For Petitioners : Mr.B.Rajesh Saravanan

For Respondent : Mr.V.Kannan

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COMMON ORDER

These Civil Revision Petitions have been filed to set aside the orders, dated 11.03.2020 in I.A.No.536 and 533 of 2019 in O.S.No.33 of 2010, passed by the learned Subordinate Judge, Kovilpatti.

2. The respondent herein, as plaintiff, has filed a suit in O.S.No.33 of 2010 seeking declaration and for permanent injunction. The Revision Petitioners are the defendants in the suit. Pending suit, the petitioners/defendants have filed a petition in I.A.No.536 of 2019, under Order VIII Rule 1A C.P.C, to accept the consent document as Ex-D18 and also filed a petition in I.A.No.535 of 2019 under Order XVIII Rule XVII CPC to recall D.W.1. The trial Court has dismissed the both petitions. Aggrieved by the same, the defendants have filed the present Revisions Petitions.

3. The learned counsel for the petitioners would submit that the author of the document, namely Velammal, who is no more and the witnesses, who is father of the plaintiff and the brother of the plaintiff are alive. Though the documents which has to be marked is not a registered document and in the absence of author, through the witnesses, the document can be marked.

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However, the revision petitioner contends that the said document shall be marked through the beneficiary in the document. Such plea cannot be entertained. The document is not a registered one and the author is no more. In the absence of the author, the document is sought to be marked through the beneficiary.

4.In view of the same, this Court feels that there is no necessary to interfere with the order passed by the trial Court in I.A.No.536 and 533 of 2019. At the request of the learned counsel for the petitioner, the beneficiary may not get the benefit, if the documents are not marked in totality. It is left open to the petitioner/revision petitioner to exercise his right before the trial Court. Since the suit is of the year 2010, the trial Court is directed to complete the trial and dispose of the suit within a period of one year from the date of receipt of copy of this order.

5.In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

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To

The Subordinate Judge, Kovilpatti.

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N.SENTHILKUMAR, J.

das

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