



C.R.P.(MD).Nos.1483 and 1484 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)Nos.1483 and 1484 of 2019

and

C.M.P(MD) Nos.7852 and 10546 of 2019 in C.R.P(MD) No.1483 of 2019
and C.M.P(MD) No.7853 of 2019 in C.R.P(MD) No.1484 of 2019

C.R.P(MD) No.1483 of 2019:

T.Meenakshi

... Petitioner/Petitioner/
1st Defendant

-VS-

1. S.Sennimalai
S/o. Sivasami Koundar,
Vivekanantha Nagar,
Dindigul Nagar.

Through his Power Agent
M.Ananthakumar,
S/o. Murugesan,
Door No.62, Ashok Nagar,
Dindigul Town.

... 1st Respondent/1st Respondent
Plaintiff

2. S.Mariyaraj

... 2nd Respondent/2nd Respondent
/2nd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and Ex-order made in I.A.No.12 of 2019 in O.S.No.



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66 of 2015, dated 12.07.2019 on the file of the Additional District Court
Dindigul.

For Petitioner : Mr.S.R.Rajagopal
Senior Counsel
for Mr.A.S.Vaigunth

For R1 : Mr.V.Raghavachari
Senior Counsel
for Mr.R.Niresh Kumar

For R2 : Mr.S.Ramesh

C.R.P(MD) No.1484 of 2019:

T.Meenakshi

... Petitioner/Petitioner/
1st Defendant

-VS-

1. V.Eswaran

2. S.Sennimalai
S/o. Sivasami Koundar,
Vivekanantha Nagar,
Dindigul Nagar.

Through his Power Agent
M.Ananthakumar,
S/o. Murugesan,
Door No.62, Ashok Nagar,
Dindigul Town.

... Respondents 1 and 2
/ Respondents 1 and 2
Plaintiffs

3. S.Mariyaraj

... 3rd Respondent/3rd Respondent
/ 3rd Defendant



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and Ex-order made in I.A.No.13 of 2019 in O.S.No. 68 of 2015, dated 12.07.2019 on the file of the Additional District Court Dindigul.

For Petitioner : Mr.S.R.Rajagopal
Senior Counsel
for Mr.A.S.Vaigunth

For R2 : Mr.V.Raghavachari
Senior Counsel
for Mr.R.Niresh Kumar

For R3 : Mr.S.Ramesh

COMMON ORDER

The first defendant in O.S.Nos.68 and 66 of 2015 on the file of the Additional District Court, Dindigul, is the revision petitioner in both the revision petitions.

2. The first respondent in C.R.P(MD) No.1483 of 2019 as plaintiff has filed a suit in O.S.No.66 of 2015 on the file of Additional District Court, Dindigul, for the relief of permanent injunction. Pending suit, according to the defendants, the original plaintiff namely, Sennimalai had passed away and



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hence they filed a Memo to that effect. The said Memo was stoutly opposed by the plaintiffs contending that Sennimalai was alive and therefore, the said Memo cannot be recorded and this prompted the defendants to file I.A.No.12 of 2019, to recall and examine the said Sennimalai. This application came to be dismissed by the trial Court on the ground that the said Sennimalai has already passed away and hence such a question of recalling and examining the Sennimalai as P.W.1 does not arise.

3. The respondents 1 and 2 in C.R.P(MD) No.1484 of 2019 as plaintiffs have filed O.S.No.68 of 2015 before the Additional District Court, Dindigul for the relief of declaration that the suit schedule properties belong to the second plaintiff and for consequential permanent injunction. In the said suit, a similar memo was filed by the defendants contending that the said Sennimalai had passed away. Since the plaintiffs stoutly opposed the said Memo, the defendants filed a petition in I.A.No.13 of 2019 to call Sennimalai as P.W.1 for reexamination. Again, the said application has also been dismissed by the trial Court on the ground that Sennimalai had passed away. Challenging these two orders, the present Civil Revision Petitions have been filed.



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4. Pending Revision Petitions, the power agent of Sennimalai has circulated a death certificate to the effect that Sennimalai had passed away on 26.12.2022 at Coimbatore. After going through the said death certificate the present application in C.M.P(MD) No.2829 of 2024 has been filed by the 1st defendant/revision petitioner to initiate proceedings under Section 195 of Cr.P.C as against the power agent and for trying him before the appropriate Court for the offence punishable under Sections 192 and 193 of I.P.C.

5. According to the learned Senior Counsel appearing for the revision petitioner, a perusal of the plaint indicates that the name of the plaintiff is S.Sennimalai, S/o. Sivasami Koundar. However, the Death Certificate relates to one M.V.Sennimalai, S/o.K.Venkatasala Gounder. Even according to the version of the plaintiff's Sennimalai was resident of New Zealand and he had passed away in New Zealand. However, the death Certificate reveals as if he had passed away in Coimbatore. Therefore, the death certificate is a forged document or does not relate to the plaintiff in both the suits. Therefore, he prays for initiating appropriate proceedings as prayed for in C.M.P(MD) No. 2829 of 2024.



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6. Per contra, the learned Senior Counsel appearing for the first respondent in the Revision Petitions brought to the notice of this Court that the suit in O.S.No.66 of 2015 was dismissed as abated on 03.02.2024 and the other suit in O.S.No.68 of 2015 was dismissed on 05.04.2024 on the ground that one of the plaintiff had passed away and the other plaintiff has filed a Memo to that effect that he is not interested to prosecute the suit. Since both the suits are not pending as on today, the question of considering the revision petitions on merit arising out of the interim orders does not arise.

7. I have carefully considered the submissions made by the learned counsel on either side.

8. Both the Revision Petitions arise out of orders of dismissal passed by the trial Court, wherein, the trial Court had rejected the application filed by the defendants to recall Sennimalai as P.W.1 for further examination. It is admitted by both the parties that Sennimalai had passed away. That apart, the main suits in O.S.No.66 of 2015 and O.S.No.68 of 2015 have also been



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dismissed on 03.02.2024 and 05.04.2024 respectively. In such circumstances, no purpose would be served by adjudicating the Revision Petitions which arise out of interim orders from the two suits.

9. In the result, both the Revision Petitions are closed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2024

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Additional District Court,
Dindigul.



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