



C.R.P(MD)No.3033 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2024**

CORAM

**THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.3033 of 2024
and
C.M.P(MD)No.17282 of 2024

1.Mohammed Ghouse

2.Ghouse

... Petitioners

Vs.

Ghouse Basha

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.03 of 2024 in O.S.No.218 of 2020 on the file of the I Additional District Judge (PCR), Trichy by allowing this revision.

For Petitioners : Mr.R.Sakthivel



C.R.P(MD)No.3033 of 2024

WEB COPY

ORDER

The present Civil Revision Petition is filed against the fair and decreetal order passed in I.A.No.3 of 2024 in O.S.No.218 of 2020 on the file of the I Additional District Judge, Trichy.

2. The defendants are the revision petitioners herein. The suit in O.S.No.218 of 2020 was filed by the respondent / plaintiff for partition. Pending suit, the petitioners as defendants filed an application to issue summons to the wife of the plaintiff to examine her as witness on the side of the defendants. The said application was resisted on the side of the respondent / plaintiff. The Trial Court dismissed the said application. Against which, the present revision is preferred.

3. The learned Counsel appearing for the revision petitioner would contend that the learned Trial Judge erred in dismissing I.A.No.3 of 2024, which was sought to examine one Samsunisha, wife of the



C.R.P(MD)No.3033 of 2024

plaintiff, who is the attestor of the undertaking deed, dated 13.10.2013, related to the suit properties and that the said Samsunisha is a vital witness. However, the Trial Court without considering the above facts of the case, erroneously dismissed the said application which calls for interference by this Court.

4. It is settled position that a witness cannot be compelled to adduce evidence and only adverse inference can be drawn. Moreover, placing reliance on the decisions reported in **1963 K.L.J 137; 1969 K.L.T 170**, a party cannot have the opposite party examined as witness. Practice of calling the opposite party as witness should not be countenanced as it is not in the interest of justice. No party can be compelled to speak in support of the opposite party or to speak against oneself. The Trial Court considering the parameters of the judgments placed before it has rightly dismissed the said application which calls for no interference by this Court.



C.R.P(MD)No.3033 of 2024

WEB COPY

5. In the result, the Civil Revision Petition stands dismissed. There shall be no order. Consequently, connected Miscellaneous Petition stands closed.

03.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The I Additional District Judge (PCR),
Trichy.



WEB COPY



C.R.P(MD)No.3033 of 2024

K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
C.R.P(MD)No.3033 of 2024

03.12.2024