



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.06.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

C.R.P.No.2965 of 2024
& CMP.No.15851 of 2024

1.Sarathambal
2.Vijaya
3.Saravanan

... Petitioners

Vs.

1.Lakshmi
2.Ravi
3.Chandrasekaran
4.Natarajan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 11.06.2024 passed in I.A.No.9 of 2023 in O.S.No.330 of 2007, on the file of the Additional District Munsif, Namakkal by allowing this Civil Revision Petition.

For Petitioners : M/s.Elizabeth Ravi

For Respondents : Mr.C.Jagadish for R1 to R3



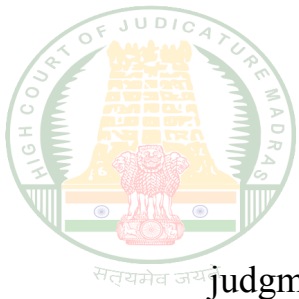
ORDER

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The Civil Revision Petition has been preferred by the plaintiffs in O.S.No.330 of 2007, challenging the dismissal of I.A.No.9 of 2023, by order dated 11.06.2024 before the Trial Court.

2.The plaintiffs have instituted the suit, challenging the judgment and decree in O.S.No.8 of 2006. During the stage of trial of the present suit in O.S.No.330 of 2007, the plaintiffs have filed I.A.No.9 of 2023 for examining the advocate, who was allegedly engaged by their husband and father respectively, namely late Sadasivam. The said application was stoutly resisted by the sister of late Sadasivam as well as the 4th defendant, Natarajan on the ground that the decree passed in O.S.No.8 of 2006 was not a fraudulent decree and it was not brought about by any material suppression or misrepresentations or even fraud as alleged by the petitioners.

3.I have heard M/s.Elizabeth Ravi, learned counsel for the petitioners and Mr.C.Jagadish, learned counsel for the respondents.



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4.The learned counsel for the petitioners would submit that when the judgment and decree in O.S.No.8 of 2006 has been the main ground of attack in the present suit and when there is a specific allegation that fraud has been played, it is just and necessary for the plaintiffs to examine the advocate who had entered appearance on behalf of the deceased, Sadasivam. She would therefore submit that the Trial Court clearly fell in error in dismissing the application, shutting out the valuable right available to the plaintiffs to establish the allegation of fraud.

5.Per contra, the learned counsel for the respondents would submit that the Trial Court has rightly dismissed the application since absolutely no reasons have been assigned in the affidavit filed in support of I.A.No.9 of 2023. He would further submit that the 4th defendant, who is arrayed as the 4th respondent in the revision petition, is also one another brother of late, Sadasivam and Lakshmi and he has been elaborately examined in chief and also cross-examined and he was a party to the said memo submitting to decree, which has been signed by himself, his brother late, Sadasivam as well as the advocate engaged by the said Sadasivam and Natarajan. He would therefore submit that there is absolutely no justification to seek



permission to examine the advocate and cause embarrassment to his profession.

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6.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the pleadings in the suit, especially the plaint in O.S.No.330 of 2007.

7.In the plaint, the legal heirs of late, Sadasivam, have specifically alleged that their husband and father respectively never engaged the counsel and never signed any memo submitting to decree, in fact, they have even alleged the signature of Sadasivam in the said memo to be forged.

8.In the light of such allegations in the plaint, the plaintiffs cannot be denied an opportunity to examine the advocate, who has allegedly been engaged by the said Sadasivam. I am therefore of the opinion that an opportunity ought to be given to the plaintiffs to examine the said advocate. However, such examination has to necessarily comes with the rider for a simple reason that an advocate-client relationship is a privileged communication, even under the provision of the Indian Evidence Act and



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also BNSS. Therefore, while permitting the examination of the advocate, it is made clear that the cross-examination shall be restricted to the signature of the advocate in the memo submitting to decree, signature of Sadasivam and also the only factum of the professional engagement of the advocate by Sadasivam and not beyond the scope of what has been stated herein above.

9. With these observations, the Civil Revision Petition is allowed and the order dated 11.06.2024 in I.A.No.9 of 2023 in O.S.No.330 of 2007 on the file of the Additional District Munsif, Namakkal is hereby set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

10.06.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To

The Additional District Munsif, Namakkal.



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P.B. BALAJI,J.

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