



C.R.P.(PD)(MD)Nos.241 & 242 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)Nos.241 & 242 of 2025

and

C.M.P(MD)No.1470 of 2025

C.R.P.(PD)(MD)No.241 of 2025

C.Mary Selin
Represented by her
Power of Attorney Holder
J.Raja

...Petitioner/Petitioner/Plaintiff

Vs.

1.M.Jeyasekaran
2.J.Aswini Kumari
3.J.Aswanth Kumar
4.Sridevi

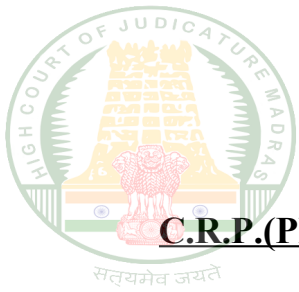
...Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the order and decreetal order, dated 22-11-2024, passed in I.A.No.7 of 2024 in O.S.No.40 of 2018, on the file of the Court of Subordinate Judge, Eraniel.

For Petitioner : Mr.J.John Jayakumar

For Respondents : Mr.C.K.M.Appaji for R1 & R4
No appearance for R2 & R3

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C.R.P.(PD)(MD)No.242 of 2025

C.Mary Selin
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...Petitioner/Petitioner/Plaintiff

Vs.

1.M.Jeyasekaran
2.J.Aswini Kumari
3.J.Aswanth Kumar
4.Sridevi

...Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the order and decretal order, dated 22-11-2024, passed in I.A.No.8 of 2024 in O.S.No.40 of 2018, on the file of the Court of Subordinate Judge, Eraniel.

For Petitioner : Mr.J.John Jayakumar

For Respondents : No appearance

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COMMON ORDER

The plaintiffs in O.S.No.40 of 2018, on the file of the Sub Court, Eraniel, has filed the present revision petitions, challenging the order passed by the trial Court, wherein the trial Court has rejected the request of the plaintiff to scrap the proof affidavit filed by her power agent and seeking permission of the Court to continue the suit in her own name as per the Order 3 and Rule 4(2) of C.P.C.



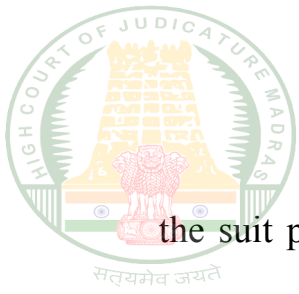
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2.A perusal of the records reveal that the suit was filed by the plaintiff in her own name for the relief of declaration of title and recovery of possession and for declaration of certain documents as null and void. The plaintiff has further prayed for mandatory injunction directing the defendants to demolish and remove the constructions put up by her in the suit schedule property. The prayer for permanent injunction not to put up any further constructions has also been prayed for.

3.Pending suit, when the plaintiff was about to leave abroad, she had filed I.A.No.6 of 2023, under Order 3, Rules 1 and 2 of C.P.C. to represent her through her power agent. This application came to be allowed on 19.10.2023.

4.On 17.04.2024, proof affidavit was filed by the power of attorney holder before the Court and he was taking adjournment continuously for 9 hearings and when it was posted on 07.08.2024, for marking of documents, the present application in I.A.Nos.7 of 2024 and 8 of 2024, have been filed to scrap the proof affidavit of the power agent and seeking permission of the Court to continue the proceedings by the plaintiff in her own name. These two applications have been dismissed by the trial Court on the ground that already



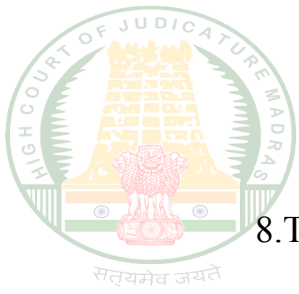
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the suit proceedings have been dragged on at the instance of the power agent and therefore, such an application cannot be allowed.

5. According to the learned Counsel appearing for the revision petitioner, when the plaintiff herself has returned back to India, she wanted to conduct the suit on her own and therefore, the proof affidavit filed by her power agent was sought to be scrapped and she wanted to file a fresh proof affidavit and to continue the suit in her own name. He further submitted that there would not be any further delay on the part of the plaintiff in conducting the suit.

6. Per contra, the learned Counsel appearing for the respondents herein had contended that unnecessarily the suit is being delayed at the instance of the power agent and he has taken at least 9 adjournments for marking of the documents. In case, if the plaintiff wants to examine herself, she can do so as P.W.2. In such circumstances, scrapping of the proof affidavit of P.W.1 is not necessary.

7. I have considered the submissions made on either side and perused the materials available on record.



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8.The facts captured above will clearly indicate that the Court was constrained to dismiss these two applications primarily on the ground that the power agent of the plaintiff has been dragging on the proceedings more than 9 hearings for marking of the documents. Now the plaintiff has returned to India, she wants to continue the proceedings in her her own name. In such circumstances, the trial Court cannot find fault with the plaintiff for filing these applications. However, the delay caused on the part of the power agent, has to be compensated by way of costs.

9.In view of the above said facts, this Court is inclined to set aside the order passed in I.A.Nos.7 & 8 of 2024. Both the Civil Revision Petitions stands allowed on payment of Cost of Rs.5,000/- to the defendants in the suit on or before **15.04.2025**. On payment of cost, the trial Court is directed to permit the plaintiff to continue the proceedings in her own name.

10.With the above said observations, these Civil Revision Petitions are allowed. Consequently, connected miscellaneous petition is also closed.

14.03.2025

Internet:Yes/No
Index:Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The learned Subordinate Judge, Eraniel.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

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