



C.R.P.(PD)(MD).Nos.688 & 689 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD).Nos.688 & 689 of 2023
and CMP(MD).Nos.3196, 3197, 3198 & 3211 of 2023

1.A.Karuppiah

2.Mangaleshwari

3.Vasanth Kumari

Muruganantham (died)

4.Valli

5.Ponni

... Petitioners/Respondents/Defendants
in both revisions

-VS-

A.Kumaraguru

...Respondent/Petitioner/Plaintiff
in both revisions

COMMON PRAYER: These Civil Revision Petitions have been filed under Article 227 of Constitution of India, to set aside the common fair and decretal order dated 25.01.2023 made in I.A.Nos.1 & 2 of 2021 in O.S.No.154 of 2015 passed by the III Additional District Court at Tiruchirappalli.



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For Petitioners : Mr.L.S.M.Mohamed Kader
In both revision petitions

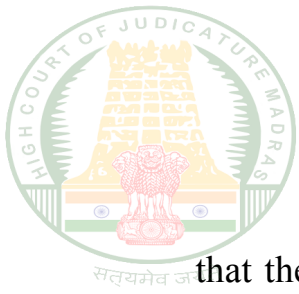
For Respondent : Mr.Raghuvaran Gopalan
For M/s.P.Sujai Krishna
In both revision petitions

COMMON ORDER

These two revision petitions have been filed by the defendants in O.S.No.154 of 2015 on the file of the III Additional District Court, Tiruchirappalli challenging an order allowing an application to recall PW1 and for the purposes of production of certain documents.

2.The plaintiff has filed the above said suit for the relief of partition and separate possession of his 1/6th share in three items of suit schedule properties.

3.When the suit was posted for arguments, the plaintiff had filed I.A.No.1 of 2021 to recall PW1 and I.A.No.2 of 2021 for the purposes of production of certain documents. According to the plaintiff, these documents are title deeds for the suit items 1 to 3. Those documents could not be produced along with the plaint since they were not in his custody. It is further contended that a notice to produce was issued to the defendants to produce the original title deeds. However, they filed an objection stating



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that they do not have the originals. This has prompted the plaintiff to not press the notice to produce application.

4.It is the further contention of the plaintiff that thereafter they applied for certified copies of those sale deeds. The plaintiff had further sought to mark Town Survey Register and F.M.B sketch for the suit schedule properties. This application was stoutly objected by the defendants on the ground that there are no pleadings with regard to these documents and these applications have been filed much belatedly.

5.The trial Court without considering the objection raised by the defendants, has proceeded to allow these two applications. Challenging the same, the defendants have filed the present civil revision petitions.

6.According to the learned counsel for the revision petitioners, the documents which were available in the hands of the plaintiff at the time of filing of the suit were not mentioned in the plaint. He could have very well produced a certified copy of the document along with the plaint. When the suit is posted for argument, the present applications have been filed belatedly. The trial Court without considering the said facts, has allowed the applications.



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7.Per contra, the learned counsel for the respondent/plaintiff had contended that these sale deeds are admitted by both the parties and they are the title deeds which indicate that the suit schedule properties belong to the parents of the parties to the suit. Therefore, there cannot be any objection whatsoever from the defendants for marking these documents.

8.Heard both sides and perused the material records.

9.A perusal of the plaint averments reveal that one of the brothers has filed the suit for partition as against the other brothers and sisters. It is not dispute that the suit schedule properties belong to the parents of the parties to the suit and the parents have died intestate. In such circumstances, this Court is of the considered opinion that there may not be any necessity to rely upon the sale deeds which are proposed to be marked. The Town Survey Register and FMB Sketch are not relevant for disposal of the suit in view of the fact that there is no dispute with regard to the lie or location of the suit schedule properties. When the documents sought to be produced in I.A.No.2 of 2021 are not relevant for disposal of the suit, PW2 need not be recalled for marking those documents. The trial Court has erroneously allowed these applications and it is liable to be set aside.



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10. In view of the above said facts, the orders impugned in the revision petitions are set aside and both the Civil Revision Petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.02.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

1. The III Additional District Judge,
Tiruchirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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