

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.4462 of 2014

Smt.Amirthavalli

.. Petitioner/Plaintiff

Vs.

1. P.Gnanaprakasam
2. Mrs.G.Sathyavathi
3. Mr.G.Sathishkumar

.. Respondents/Defendants

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India against the order of the III Additional Judge, City Civil Court, Chennai, in I.A.No.13478 of 2014 in O.S.No.9011 of 2010 dated 8.9.2014.

For Petitioner : Mr.R.Vijayaraghavan

For Respondents : Mrs.S.Thamizharasi

ORDER

This Civil Revision Petition has been filed by the petitioner challenging the impugned order dated 8.9.2014 passed in I.A.No.13478 of 2014 in O.S.No.9011 of 2010, wherein the application filed under Order VII, Rule 14(2) of CPC for reception of

documents came to be partly dismissed.

2. Learned counsel appearing for the petitioner would submit that the petitioner as a plaintiff filed a suit O.S.No.9011 of 2010 for recovery of possession. The 1st respondent herein filed O.S.No.9249 of 2010 for redemption of mortgage. Both the suits are tried jointly. When PW1 was in witness box, he filed an application for reception of additional documents under Order 7, Rule 14, out of which, the 1st document has been rejected and document Nos. 2 and 3 were accepted and the relevancy and admissibility of the documents would be decided at the time of trial on payment of cost.

3. Learned counsel for the petitioner would further submit that he has to be permitted to mark the documents. Hence he prayed for setting aside the impugned order and direct the trial court to receive all the three documents and prayed for allowing of this Civil Revision Petition.

4. Resisting the same, the learned counsel for the respondents would submit that the 1st document is not necessary to adjudicate the matter. The plaintiff is the competent person to depose before the Court. Hence the trial Court has rightly rejected that document and prayed for dismissal

of this Revision.

5. Considered the rival submissions made on both sides and perused the typed set of papers.

6. It is admitted by both sides that originally the suit property is belonging to the 1st respondent P.Gnanaprakasam. He mortgaged the suit property with Sree Varadharaja Benefit Fund Ltd and since he defaulted in payment of loan amount, the property was brought for sale under public auction, by which the revision petitioner as a successful bidder got the suit property. Since the defendant has not vacated the premises, the petitioner/plaintiff herein, who is the auction purchaser of the suit property filed a suit for recovery of possession in O.S.No.1911 of 2010, but the respondent filed O.S.No.1911 of 2010 for redemption of mortgage. Now, both the suits are pending before the trial court and can be tried simultaneously.

7. Now the only point to be decided by this court is whether the 1st document rejected by the trial court is sustainable or not?

8.It is pertinent to note that in the affidavit filed in I.A.No.13478 of 2014 before the trial court, the petitioner herein has stated as follows;

“I submit that I received a letter dated 16.2.2012 under Right to Information act from Egmore Benefit fund Society Ltd., stating that the 1st Defendant was employed at their Office. I also authorised my husband to appear and give evidence on behalf of me before this Hon'ble Court by way of letter of authorisation dated 08.03.2012. The Corporation Tax receipt for the up to date is also to be filed and marked.”

But in the petition, list of documents have not been mentioned. In the order, it was stated that 1st document has been rejected. There is no material to show which is 1st document. On perusal of paragraph 7 and 8 of the order, nothing has been mentioned which document is document No.1. So, in such circumstances, I do not find any reason to interfere with the findings of the trial Court. Hence this application deserves to be dismissed and accordingly, it is hereby dismissed.

9. In fine, this Civil Revision Petition is dismissed confirming the order passed in I.A.No.13478 of 2014 in O.S.No.9011 of 2010 by the learned III Additional Judge, City Civil Court, Chennai. No costs. Consequently, the connected M.P.No.1 of 2014 is closed.

15.12.2015

Index :Yes/No

Internet:Yes/No
msr

To

The III Additional Judge, City Civil Court, Chennai,

R. MALA, J

msr

C.R.P(PD).No.4462 of 2014

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