

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.1608 of 2015
and M.P.No.1 of 2015

Vedavalli Ammal

... Petitioner

Vs.

Durai Asari

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 16.02.2015 passed in I.A.No.90 of 2015 in O.S.No.441 of 1999 on the file of the District Munsif Court, Panruti.

For Petitioner : Mr.D.Baskar

ORDER

Challenging the fair and final order passed in I.A.No.90 of 2015 in O.S.No.441 of 1999 on the file of the District Munsif Court, Panruti, the defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.441 of 1999 for specific performance. After the trial, the trial Court dismissed the suit.

3. Aggrieved over the same, the plaintiff preferred a First Appeal in A.S.No.38 of 2007 on the file of the Subordinate Court, Panruti and the lower Appellate Court also confirmed the judgment and decree of the trial Court. Thereafter, the plaintiff preferred a Second Appeal in S.A.No.1683 of 2008 before this Court and this Court set aside the judgment and decree of the Courts below and remanded the matter back to the trial Court for fresh consideration, after providing reasonable opportunity to both the parties to adduce further evidence, if any. After remand, the plaintiff filed an application in I.A.No.90 of 2015 under Order 7 Rule 14 of the Code of Civil Procedure, seeking permission of the Court to produce four documents. The defendant filed his counter disputing the averments stated in the affidavit filed in support of the petition. Further, he has specifically stated that the affidavit dated 15.10.2012 sought to be produced by the plaintiff cannot be allowed to be marked in the suit for the reason that the deponent of the affidavit was not alive. Though the defendant has stated that the deponent of the affidavit was not alive, in the counter filed by the defendant, he has stated that the deponent is alive.

4. It is needless to say that mere production of the document itself is not sufficient to establish the case of the parties. The documents have to be proved in accordance with law by adducing oral evidence. The relevancy

of the document have to be proved by the concerned parties and the trial Court should take into consideration the truth, relevancy and admissibility of the document at the time of marking of the document. Since the defendant is raising objections with regard to the marking of the document, it is open to him to raise all his objections at the time of marking the same. If the trial Court finds that any of the document sought to be marked is not relevant or not established by the plaintiff in accordance with law, the said document cannot be marked. On the contrary, if the plaintiff is able to establish the truth and relevancy of the document, the same can be marked.

5. In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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02.06.2015

To

The District Munsif Court,
Panruti.

M.DURAIWAMY,J.
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