

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1643 of 2015 &
M.P.No.1 of 2015

N.Parthasarathy

... Petitioner

v.

D.S.Mohan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree dated 13.02.2015 passed in I.A.No.4 of 2015 in O.S.No.912 of 2011 on the file of the III Additional District Munsif, Coimbatore.

For Petitioner : Mr.R.Parthasarathy

For Caveator : Mr.G.Sankarar

ORDER

Heard both sides.

2. Challenging the fair and final order passed in I.A.No.4 of 2015 in O.S.No.912 of 2011 on the file of III Additional District Munsif Court, Coimbatore, the plaintiff has filed the above Civil Revision Petition.

3. The plaintiff filed the suit in O.S.No.912 of 2011 for declaration and permanent injunction. The said suit is being contested by the defendant on various grounds. Thereafter, the plaintiff filed an application in I.A.No.4 of 2015 under Order VII, Rule 14(1) of C.P.C. to permit him to produce 15 additional documents. The said application was opposed by the defendant stating that the said documents cannot be marked in the suit.

4. The Trial Court, after taking into consideration the case of both parties, allowed the plaintiff to produce the Document Nos. 1, 2 and 12 to 15 and rejected the Document Nos. 5 to 8, 10 and 11 and further directed the plaintiff to produce the certified copies of Document Nos. 3, 4 and 9.

5. So far as the Document No.9 is concerned, the plaintiff produced the xerox copy of the sale deed dated 29.11.2007, which cannot be produced before the Trial Court. Therefore, the plaintiff is bound to produce the certified copy of the Document No.9, i.e., the sale deed dated 29.11.2007,

before the Trial Court.

6. So far as the other documents are concerned, i.e., Document Nos.3 and 4 are concerned, the Document No.3 relates to a renewal agreement dated 18.8.2010 and Document No.4 relates to a complaint given by the plaintiff to the police. When the agreement is not a registered agreement, the plaintiff cannot produce the certified copy of the same. Similarly, the plaintiff cannot get a certified copy of the complaint given to the police. Therefore, except Document No.9, the plaintiff can be permitted to produce the other documents before the Trial Court and in respect of Document No.9, the plaintiff has to produce the certified copy of the sale deed dated 29.11.2007.

7. However, by producing the documents alone, the plaintiff will not stand in an advantageous position for the reason that the documents have to be marked only after establishing the truth, genuineness and relevancy of the documents. Mere production of the documents itself are not sufficient to mark those documents. It is needless to say that the defendant shall have a right of cross examination with regard to the truth, genuineness and relevancy of the documents sought to be marked by the plaintiff.

8. In these circumstances, the fair and final order passed by the trial court is liable to be set aside. Accordingly, the same is set aside and the petitioner is permitted to produce the documents as stated above before the Trial Court and the plaintiff shall prove the truth, genuineness and the relevancy of the documents before the Trial Court at the time of trial. If the Trial Court comes to the conclusion that the documents are not relevancy or truth and genuine, the same can be rejected by the Trial Court. The defendant is at liberty to cross examine the plaintiff with regard to the documents sought to be marked at the time of trial.

With this observation, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions is closed.

20.04.2015

Index : No
Internet : Yes

Rj

To

The III Additional District Munsif,
Coimbatore.

M. DURAISWAMY,J.,

C.R.P.(PD)No.1643 of 2015 &
M.P.No.1 of 2015

20.04.2015