

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2623 of 2015 &

M.P.No.1 of 2015

R.Palaniswamy

... Petitioner

v.

1.A.Chenniappan
2.Krishnaveni

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 23.04.2015 made in I.A.No.862 of 2014 in O.S.No.433 of 2013 on the file of III Additional Sub Court, Coimbatore

For Petitioner : Mr.K.S.Karthik Raja

O R D E R

Challenging the fair and final order passed in I.A.No.862 of 2014 in O.S.No.433 of 2013 on the file of III Additional Sub Court, Coimbatore, the 1st defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.433 of 2013 for declaration and permanent injunction. The defendants filed their written statement and are contesting the suit. In the said suit, the 2nd plaintiff took out application in I.A.No.862 of 2014 under Order VII, Rule 14 of CPC to condone the delay in producing the additional documents viz., death certificate of Venkatachalam dated 30.07.2004 and certified copy of the final report in Crime No.16 of 2008, dated 2.8.2011.

3. In the affidavit filed in support of the application, the 2nd plaintiff has stated that the death certificate was misplaced by the plaintiffs and another document i.e., final report in Crime No.16 of 2008 was obtained, after getting certified copy of the same on 2.8.2011. The 1st defendant filed his counter stating that the application filed by the 2nd plaintiff is liable to be rejected for the reason that he has not given any acceptable reason for condoning the delay in producing the documents before the Trial Court.

4. The Trial Court, after taking into consideration the case of both the parties, allowed the application. While allowing the application, the Trial Court found that the objection of the defendants can be decided only at the time of trial after giving sufficient opportunities to both sides to prove their documents by examining necessary witnesses.

5. Mere production of the document is not sufficient to prove the case of the parties. The document should be proved in accordance with law by examining the necessary witnesses. The admissibility and the genuineness of the document can be established at the time of trial.

6. Now, the 2nd plaintiff is seeking to condone the delay in producing the document before the Trial Court. Therefore, at the time of marking of the document, the defendants shall have an opportunity of cross examining the witnesses with regard to the documents. It is needless to say that the 2nd plaintiff has to prove the document by examining the necessary witnesses and establish the admissibility and genuineness of the document. In these circumstances, the Trial Court has rightly allowed the application.

7. In view of the above, 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 Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

16.07.2015

Rj

To

The III Additional Judge,
Sub Court,
Coimbatore,

M. DURAISWAMY,J.,

Rj

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