

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.09.2015

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THE HONOURABLE MR. JUSTICE T.MATHIVANAN

C.R.P.(PD) No.3021 of 2012

and

M.P.No.1 of 2012

Mannayya Naidu

..Petitioner /Defendant

/vs/

1.Rangammal @ Muniamma

2.Subbulu

..Respondents/Plaintiffs

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.02.2012 passed in I.A.No.1360 of 2011 in O.S.No.17 of 2006 on the file of the District Munsif Court, Ponneri.

For Petitioner :Mr.N.R.Anantha Rama Krishnan

For Respondent :Mr.E.Prabu

ORDER

Challenging the fair and decreetal order dated 21.02.2012 and made in I.A.No.1360 of 2011 in O.S.No.17 of 2006 on the file of the District Munsif Court, Ponneri, the defendant has preferred this memorandum of civil revision petition.

2. Heard Mr.N.R.AnanthaRamaKrishnan, learned counsel appearing for the revision petitioner and Mr.E.Prabu, learned counsel appearing for the respondent.

3. The respondents/plaintiffs appear to have filed a suit in O.S.No.17 of 2006 on the file of the learned District Munsif Court, Ponneri against the revision petitioner seeking the relief of declaration. The suit was contested by the revision petitioner by filing his written statement. Thereafter, trial was commenced, after filing their respective proof affidavits. At that time, the revision petitioner has filed an application in I.A.No.1360 of 2011 under Order 8, Rule 1(3) r/w Section 151 of Code of Civil Procedure to receive the documents enlisted therein, after condoning the delay as those documents were not able to file along with the written statement of the defendant. This petition was resisted by the respondents/plaintiffs by filing their counter statement.

4. After hearing both sides, the learned Trial Judge has proceeded to dismiss that application in respect of document No.1 and in so far as the documents 2 and 3 are concerned, that application was allowed.

Against the dismissal portion of the application in respect of document No.1, the defendant has preferred this civil revision petition.

5. When the matter is taken up for hearing, the learned counsel appearing for the respondents/plaintiffs has submitted that let the document No.1, being the letter dated 15.5.1986 , be received subject to the objection of the respondents/plaintiffs and also subject to proof and relevancy.

6. Mr.N.R.AnathaRamaKrishnan, the learned counsel appearing for the revision petitioner has also no objection for the suggestion made by the learned counsel appearing for the respondents.

7. Accordingly, this Court finds that the revision petition may be allowed and the impugned order in respect of document No.1 in application No.1360 of 2011 may be set aside and the document No.1 being the letter dated 15.05.1986 may be permitted to be received in evidence, subject to the objection of the respondents/plaintiffs that may be raised at the time of marking this document.

8. Accordingly, this civil revision petition is allowed and the impugned order in respect of Document No.1 dated 15.05.1986 is set aside and the application in A. No.1360 of 2011 is allowed in toto. The trial Judge is directed to receive the document No.1 dated 15.05.1986 as a documentary evidence subject to the objection, which may be raised by the respondents/plaintiffs at the time of marking this document. No costs. Consequently, connected Miscellaneous Petition is also closed.

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To
The District Munsif Court,
Ponneri.

09.09.2015

T.MATHIVANAN,J.

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