

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2172 of 2015

Shameem Jahan

...Petitioner

versus

1. Kousen Jahan
2. S.Faiz Jahan
3. Nazeer Jahan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree dated 19.2.2015 passed in I.A.No.1853 of 2014 in O.S.No.8459 of 2010 on the file of V Additional City Civil Court, Chennai, Tamil Nadu.

For Petitioner : Ms. J.B.Abithabanu
for M/s.Surana and Surana
For respondents : No appearance

ORDER

The petitioner filed a suit for declaration in O.S.No.8459 of 2010. The said suit was opposed by the respondents by filing written statement.

2. Before the trial court, the petitioner marked string of documents. The respondents 6 to 8 subsequently filed an

application in I.A.No.1853 of 2014 to reject the documents marked as Ex.A.1, 2, 3, 5, 7, 8 and 9. The application was allowed by the learned trial Judge. Feeling aggrieved, the petitioner has come up with this Civil Revision Petition.

3. Heard the learned counsel for the petitioner. None appears on behalf of the respondents.

4. The petitioner produced several documents to substantiate her contention. Before the trial court, the respondents disputed the evidentiary value as well as the admissibility of the documents marked as Exs.A.1, 2, 3, 5, 7, 8 and 9.

5. The documents available on record and the pleadings indicate that a reference was made in the written statement with regard to Exs.A.7 and A.8. Exs.A.5 and A.9 are certified copies. Exs.A.1, 2 and 3 are all xerox copies of the documents. The trial court marked all those documents in the presence of the respondents. It was only subsequently by way of the application in I.A.No.1853 of 2014, those documents were eschewed for consideration.

5. Since there was a reference in the written statement filed by the respondents with regard to Exs.A.7 and A.8, necessarily

those documents should be received in evidence. The documents in Ex.A.5 and A.9 are certified copies. The question of admissibility and evidentiary value of those documents would be decided by the trial court during the course of trial. Insofar as Exs.A.1 to A.3 are concerned, the petitioner has not taken any efforts to prove it by adducing secondary evidence. Therefore, the learned trial Judge was correct in eschewing the evidence with regard to Exs.A.1, 2 and 3.

6. The order passed by the trial court with respect to Exs.A.5, 7, 8 and 9 requires to be set aside.

7. In the result, the order dated 19.2.2015 is set aside in part. The order would stand with respect to the documents marked as Exs.A.1, 2 and 3. The observation with regard to the documents marked as Ex.A.5, 7, 8 and 9 shall stand expunged. In short, the trial court would receive the documents in Exs.A.5, 7, 8 and 9 subject to admissibility and evidentiary value. The documents in Exs.A.1, 2 and 3 shall not be relied on to prove the case of the petitioner in O.S.No.8459 of 2010.

8. The learned counsel for the petitioner submitted that the petitioner would produce the original of the documents marked as Exs.A.5 and A.9 before the trial court. It is open to the petitioner

to produce the documents in substitution of the xerox copies already filed.

9. The Civil Revision Petition is allowed to the extent indicated above. No costs.

09.11.2016

Index:Yes/No

ajr

To

V Additional City Civil Court, Chennai, Tamil Nadu.

K.K.SASIDHARAN, J.

ajr

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