

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 12.04.2016****CORAM****THE HONOURABLE Dr. JUSTICE S.VIMALA****C.R.P. (NPD) No.1141 of 2016****and****C.M.P.No.6279 of 2016**

L.Arumugam

... Petitioner

Vs.

1. C.Pethannan

2. Murugesan @ Murugan

3. R.Balaji

... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order and decretal order dated 18.01.2016, passed by the learned X Assistant Judge, City Civil Court, Chennai in E.A.No.5441/2015 in E.A.No.2082/2015 in E.P.No.4428/2011 in O.S.No.6707/2005.

For Petitioner : Mr.S.Balasubramanian

For respondents : Mr.S.Krishnasamy

ORDER

One L.Arumugam, a third party filed an application in E.A.No.5441 of 2015, before the learned X Assistant Judge, City Civil Court, Chennai, under Order 16 Rule 5 of Civil Procedure Code, requesting the Court to issue subpoena to the Sub-Registrar of Velachery, for the

purpose of adducing evidence with regard to Ex.P2-Encumbrance Certificate, dated 12.10.2011, for the period from 01.01.1998 to 11.10.2011. The said petition has been dismissed by the learned X Assistant Judge, City Civil Court. Challenging the same, this revision petition has been filed.

2. Heard the learned counsel appearing for the revision petitioner as well as the caveator.

3. The learned counsel appearing for the revision petitioner would submit that on 09.10.2005, during the course of cross examination of the third party/PW1, the decree holder put a question to the effect that the Sub-registrar was persuaded to issue Ex.P2-Encumbrance Certificate, which did not contain the correct details and that only for that purpose, the Sub-Registrar was sought to be examined.

4. All the official acts are presumed to be genuine one under Section 35 of the Evidence Act. However, it is a rebuttable presumption. Having regard to the suggestion put to PW1, it is necessary to find out, whether the entries made in the encumbrance certificate are correct or not. Under such circumstances, it is enough, if the parties/Court get the opportunity to cross check the details given in Ex.P2, by comparing it with the original document. Therefore, the learned X Assistant Judge, City Civil Court is directed to call for the original records from the concerned

Sub-Registrar, relating to Ex.P2 Encumbrance Certificate for the period from 01.01.1998 to 11.10.2011 and to compare the same with the document already filed and to pass further orders in accordance with law. The learned X Assistant Judge, City Civil Court is further directed to expedite the matter and conclude the exercise within a period of 15 days from the date of receipt of a copy of this order.

5. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12.04.2016

mrp/ogy

To

1. Learned X Assistant Judge,
City Civil Court, Chennai.

S.VIMALA, J.

mrp/ogy

C.R.P.(NPD) No.1141 of 2016

12.04.2016