

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1793 of 2016

&

C.M.P.No.9399 of 2016

C.H.Venkateswara Rao

... Petitioner

vs

1.V.Laxman

2.V.Bharadwaj

3.Balasubramaniam Iyer

4.The Sub Registrar

Office of the Sub Registrar

Annanagar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.9675/2015 in O.S.No.9541 of 2009 dated 06.08.2015 on the file of IV Assistant Judge i/c. Of III Assistant City Civil Court at Chennai.

For Petitioner : Mr.M.Muthappan

ORDER

This revision challenges the order of learned IV Assistant Judge i/c. Of III Assistant City Civil Court, Chennai, passed in I.A.No.9675/2015 in O.S.No.9541 of 2009 dated 06.08.2015.

2. Heard the learned counsel for petitioner.

3. Though we would accept the submission of learned counsel for petitioner that the order under challenge does not inform reasons, we still would not interfere for the reason that chief examination of the plaintiff witness P.W.1 has been reopened towards enabling him to file an additional affidavit to mark Exs.A10 to 15 subject to proof and relevancy. The plea of the respondents in support of the I.A was:

2. I submit that in the above suit, I filed proof affidavit on 26.08.2013 and 8 documents were marked as Exhibits-A-1 to A-8 and I was being cross examined in the matter and Exhibit A-9 was marked during cross examination. Meanwhile we were able to find an address of an Architect from the correspondence handed over and when approached we were able to get from him patta dated 5-11-2002 and planning permit for building construction dated 19-12-2002 granted by the Corporation of Chennai. In the circumstances we filed an application I.A.No.15374 of 2013 for leave to file the said documents and this Hon'ble Court was pleased to grant leave for filing the said two documents.

3.I submit that interests of justice require that the said two documents, namely, certificate on the extract from the Town Survey Land Register issued by the Tahsildar, Egmore-Nungambakkam Taluk dated 5-11-2002 and Planning Permit-Building Licence and approved plan given by the Corporation of Chennai dated 18-12-2002 have to be marked as Exhibits A-10 and A-11.

4. I submit that the Chief Examination has been concluded and cross examination of the plaintiff's witness No-1 was proceeding. I submit

that while the counsel for the 1st defendant was cross examination I found that due to mistake the Registered Power of Attorney in my favour for a property in Coimbatore was filed instead of the one pertaining to suit property in Anna Nagar, Chennai. Similarly, the encumbrance certificate relating to the suit property marked was a one obtained by me subsequently. The said two documents were marked inadvertently instead of the right documents. I had also found certified copy of probate granted by Bombay High Court in favour of my late brother Mr.vishwanath V Iyer for the estate of our father. I could also find the PAN card obtained my late brother Mr.Vishwanath V.Iyer. In the circumstances I filed I.A.No.12855 of 2014 and this Hon'ble Court was pleased to grant permission for admission of those documents by order dated 10-11-2014. The said documents have to be marked as Documents A-12,A-13, A-14 and A-15 in the above suit.

5. I submit that cross examination by the 2nd defendant's counsel was also over.

6. In the circumstances I submit that unless the oral evidence of P.W-1 is re opened for the purpose of marking the said 6 documents, the plaintiffs will be put to great hardship and irreparable loss.

In the circumstances, the order of the Court below is a proper one and this Court would not interfere. Therefore, the Civil Revision Petition is dismissed. No costs. Connected miscellaneous petition is closed.

20.06.2016

Index:yes/no

Internet:yes

To

The IV Assistant Judge

i/c. Of III Assistant City Civil Court, Chennai

C.T.SELVAM, J
kpr

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