

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.1927 OF 2016
AND CMP NO.10029 OF 2016

D.Santhakumar

... Petitioner

Versus

Sri Chenna Kesava Perumal Koil
Rep. By Managing Trustee
Devaraja Mudali Street,
Park Town, Chennai – 600 003.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 09.10.2014 in I.A.No.1417 of 2013 in O.S.No.7675 of 2012 on the file of the XII Assistant City Civil Court, Chennai.

For Petitioner : Mr.K.P.Chandrasekaran
For Respondent : No appearance

ORDER

The petitioner filed a suit in O.S.No.7675 of 2012 before the XII Assistant Judge, City Civil Court, Chennai, praying for a decree

of permanent injunction. During the currency of the said suit, the petitioner filed an application in I.A.No.1417 of 2013 for amendment of the plaint with an allegation that during the currency of the suit, he was dispossessed by the respondent and as such, he should be permitted to amend the plaint, for taking a plea of declaration, to declare the dispossession as bad in law. The application was dismissed by the Trial Court on the ground that there was no documentary evidence to prove that the petitioner was in possession of the suit property. The said order is under challenge in this Civil Revision Petition.

2. The learned counsel for the petitioner produced certain documents to substantiate the contention taken in I.A.No.1417 of 2013 to the effect that the petitioner has been in possession and enjoyment of the property as on the date on which the suit in O.S.No.7675 of 2012 was filed. However, the fact remains that none of those documents were produced before the Trial Court. The Trial Court dismissed the application on the basis of the available materials. The documents now produced were not before the Trial Court when the application in I.A.No.1417 of 2013 was taken up.

3. In order to give an opportunity to the petitioner to produce the documents, the order dated 09.10.2014 is set aside. The application in I.A.No.1417 of 2013 is restored to file. The petitioner is given two weeks time from the date of receipt of a copy of this order to produce the documents before the Trial Court.

4. The learned Trial Judge is directed to dispose of the application in I.A.No.1417 of 2013, on merits and as per law, as expeditiously as possible.

5. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

22.11.2016

TK

To

The XII Assistant Judge
City Civil Court
Chennai.

K.K.SASIDHARAN, J.

TK

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