

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.11.2016**

CORAM:

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

C.R.P.(P.D.) No.2614 of 2016 and
CMP.No.13419 of 2016

1.Sundarambal
2.Bhagyalakshmi

...Petitioners

versus

1.R.Badrappan
2.R.Ramasamy

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decretal order dated 21.08.2015 in I.A.No.690 of 2015 in O.S.No.238 of 2007 on the file of III Additional Subordinate Judge, Coimbatore.

For Petitioners : Ms.Udaya P.S.Menon

For Respondents : Mr.S.Mukunth for
M/s.Sarvabhauman Associates

ORDER

The order passed by the learned III Additional Subordinate Judge, Coimbatore, receiving the documents filed by the respondents in I.A.No.690 of 2015 is under challenge in this Civil Revision Petition at the instance of the Plaintiffs 2 and 3 in O.S.No.238 of 2007.

2. The respondents filed an application in I.A.No.690 of 2015 before the examination of D.W.1 to condone the delay in producing documents. The application was opposed by the petitioners on the ground that being the document, dated 03.02.1984 being an unregistered document, it is not admissible in evidence. The Trial Court allowed the application with an indication that proof and relevancy would be decided later.

3. The learned counsel for the petitioners contended that the document, dated 03.02.1984 was not stamped properly and as such, the same is inadmissible. According to the learned counsel, the unregistered document was in relation to payment of a sum of Rs.3,000/- and the Trial Court was therefore not correct in allowing the application.

4. The learned counsel for the respondents on the other hand submitted that the Trial Court is yet to decide the proof and relevancy of the document. Even before deciding the said issue, the petitioners have rushed to this Court.

5. The respondent filed an application in I.A.No.690 of 2015 to condone the delay in producing the documents. The petitioners are aggrieved by the reception of the document, dated 03.02.1984 styled as 'receipt cum agreement' for a sum of Rs.3,000/-. According to the petitioners, the document in question was fabricated to defeat their claim. Since it was unregistered, the document cannot be received in evidence.

6. The Trial Court appears to have only received the document. The Trial Court made it very clear that proof and relevancy would be decided later. However, there is no clear indication as to whether the admissibility would be decided during the course of trial or while considering the suit for final disposal.

7. After hearing the learned counsel for the parties and on a perusal of the order impugned in the civil revision petition, I am of the view that interest of justice would be sub served by directing the learned Trial Judge to decide the question of admissibility of the document before proceeding further.

K.K.SASIDHARAN, J.

(svki)

8. The learned Trial Judge shall give a finding as to whether the document in question requires compulsory registration and as to whether, it can be received in evidence. There must be a factual finding given by the learned Trial Judge with regard to admissibility before entertaining the document dated 03.02.1984. In short, the Trial Court shall take a decision with regard to the question of admissibility before exhibiting the document.

9. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2016

Index : Yes/No
svki

To

The III Additional Subordinate Judge, Coimbatore.

C.R.P.(P.D.) No.2614 of 2016

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