

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

C.R.P.PD.No.3288 of 2016

and

C.M.P.No.16743 of 2016

1.Ganesan

2.Thenammal

.. Petitioners

vs

Rajamanickam

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 30.07.2016 passed by the learned District Munsif cum Judicial Magistrate, Uthiramerur in I.A.No.145 of 2016 in O.S.No.118 of 2015.

For Petitioners : Mr.Kumar

For Respondent : Mr.K.G.Senthilkumar

ORDER

The plaintiffs are the revision petitioners. Aggrieved by the order passed by the Court below in allowing the application filed by the respondent/second defendant for marking of two documents, the present revision has been filed.

2. Heard both sides.

3. The learned counsel appearing for the revision petitioners would submit that the documents sought to be marked by the respondent are photo copies of public documents, viz., orders passed by CRA and DRO respectively and that they are only the secondary evidence, which cannot be permitted to be marked, until and unless Sections 63 and 65 of the Indian Evidence Act, 1872 are complied with. He would further submit that the said documents can be marked only through the authorities concerned and not by the respondent himself. Accordingly, he would pray for setting aside the same.

4. On a perusal of the order passed by the Court below, it is seen that the learned trial Judge has held that mere marking of the documents would not confer any right on the respondent and that he has only sought leave from the Court to mark the documents. Further allowing the said application would not prejudice the revision petitioners herein as the same has been allowed subject to its proof, admissibility and relevancy to the dispute in question and following the judgment of the Hon'ble Apex Court in the case of **Bipin Shanthilal Panchal vs State of Gujarat** reported in **AIR 2001 SC 1158**. It

has further held that the revision petitioners are having every right to raise objection to the said documents, during marking of the same at the time of trial.

5. In view of the above, I do not find any infirmity in the order passed by the Court below. However, the revision petitioners are given liberty to raise their objections, if any, to the said documents, which they have raised in their counter before the Court below as well as before this Court, while discussing about the same either at the time of marking the same, during evidence or at the arguments stage, during trial.

6. With the above observation, this Civil Revision Petition is disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

15.12.2016

vj2

Index: Yes/No

Internet: Yes

To

The District Munsif cum Judicial Magistrate, Uthiramerur

PUSHPA SATHYANARAYANA,J.,
vj2

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