

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.510 of 2016

&

C.M.P.No.2612 of 2016

Rajappa alias A.K.Sriraman

... Petitioner

vs.

1.Thangavelu Naicker

2.Pattanna alias A.K.Srinivasan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned District Munsif, Chengalpattu dated 18.11.2015 in I.A.No.1055 of 2015 in O.S.No.48 of 2003.

For Petitioner : Mr.A.Dinesh
for M/s.V.Nicholas

ORDER

The first defendant in the original suit O.S.No.48 of 2003 pending on the file of District Munsif, Chengalpattu is the petitioner in the revision. The plaintiff in the said suit is the first respondent and

the second defendant in the said suit is the second respondent in the revision.

2. The petitioner herein filed the above said suit for permanent injunction. The suit is ready for trial and at that point of time, the first respondent herein/plaintiff filed an application I.A.No.1055 of 2015 under Order VII Rule 14 r/w.151 CPC for the reception of 7 documents. The documents sought to be produced are xerox copies. The respondent / plaintiff came forward with an explanation that the original documents were filed in an earlier application and the same were lost in the Court and hence, he had to lead secondary evidence by producing the xerox copies of the said documents. The learned trial Judge, after making an observation that no earlier petition was filed and the original documents were not produced, chose to allow the petition directing the receipt of the xerox copies, subject to proof and relevance.

3. The scope of Order VII Rule 14 CPC is limited to the time within which documents relied on by the plaintiff have to be produced. According to the said provision, the plaint shall contain a list of documents sought to be relied on by the plaintiff and the same shall be produced in the Court when the plaint is presented. Apart from

the production of list, Sub-clause (1) of Rule 14 contemplates delivery of the documents or copies thereof. Sub-Clause (2) refers to what is to be done in case the document is not in the possession or power of the plaintiff. As per the sub-clause, wherever possible the plaintiff should state in whose possession and power such document is or documents are? Sub-clause (3) says that any document not entered in those list shall not be received in evidence without the leave of the Court. Only to seek such a leave for the delayed presentation of the documents, petition under order VII Rule 14 (3) CPC came to be filed. The mere fact that the delay in producing the documents is condoned, will not mean that the admissibility of the document has been found in the affirmative.

4. The learned trial Judge himself has made it clear that the documents are received subject to proof and relevance, which implies that the question of admissibility is deferred to be considered at the time of attempted marking of those documents. The petitioner, who challenges the said order, can very well raise an objection at the time when the documents are sought to be marked as evidence. While deciding an application to condone the delay in producing the document relied on by the party, the question of admissibility need not be gone into. The learned trial Judge exactly done the same thing.

The present Civil Revision Petition is ill-founded and the same deserves to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. It is clarified that the petitioner or other defendants shall have the right to raise objection when the documents are sought to be marked as exhibits. No costs. Consequently, the connected miscellaneous petition is closed.

23.02.2016

Index: Yes/No

Internet: yes

gpa

To

The District Munsif Court
Sankari

P.R.SHIVAKUMAR.J.,

gpa

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