

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) No.835 of 2016 and
C.M.P.No.4641 of 2016

Seerangasamy

.. Petitioner

versus

1. P.Chenniappan

2. C.Vasanthamani

..Respondents

Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 01.02.2016 in I.A.No.858 of 2015 in O.S.No.89 of 2011 on the file of the District Munsif Court cum Judicial Magistrate, Perundurai.

For Petitioner : Ms.P.T.Ramadevi

For Respondents : Mr.I.C.Vasudevan

ORDER

The petitioner filed a suit against the respondents praying for a decree of declaration and consequential injunction. The suit was resisted by the respondents by filing written statement. The petitioner filed an application in I.A.No.858 of 2015 for filing reply statement. The application was dismissed by the trial Court, primarily on the ground of delay. The said order is challenged in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The petitioner filed the suit in O.S.No.89 of 2011 with a specific plea that even after cancelling the Power of Attorney given to the 1st respondent, he executed a sale agreement in favour of the 2nd respondent. Subsequently, the sale deed was registered in the name of the 2nd respondent. The petitioner, therefore, prayed for a decree declaring that the registered sale deed dated 10.09.2009 is null and void and not binding on him.

4. The 1st respondent, on the other hand, contended that the cancellation of Power of Attorney was not known to him and the document executed in favour of the 2nd respondent is part of a bonafide transaction.

5. The petitioner wanted to state certain facts, taking into account the written statement filed by the respondents. It was only for the said purpose the petitioner filed the application in I.A.No.858 of 2015.

6. The learned trial Judge was of the view that the petitioner failed to file the reply statement within a reasonable period. According to the learned Judge, the application was filed only after

posting the suit in the Special List.

7. The learned trial Judge has not dismissed the application on merits. It was dismissed only on the ground of delay. While considering an application of this nature, the trial Court was bound to consider as to whether the plaintiff was justified in filing the reply statement. Merely because the suit was posted in the Special List, it cannot be said that the plaintiff is not entitled to file a reply statement, if he is otherwise entitled to. Therefore, the trial Court was not correct in dismissing the application filed by the petitioner.

8. In the result, the order dated 01.02.2016 is set aside. The application in I.A.No.858 of 2015 is allowed.

9. The learned trial Judge is directed to dispose of the suit as expeditiously as possible.

10. The Civil Revision Petition is allowed with the above observation. No costs. Connected miscellaneous petition is closed.

11.11.2016

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To

District Munsif Court cum Judicial Magistrate, Perundurai.

K.K.SASIDHARAN,J

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