



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (MD) Nos.1199 of 2016 (PD)

and

C.M.P (MD) No.5881 of 2016

P.Shanmugar

.. Petitioner

vs.

K.P.Thangaraj

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 10.06.2014 passed in Memo S.R.No.3622 of 2014 in O.S.No.34 of 2011, on the file of the Additional Sub-Court, Karur, allow this Civil Revision Petition.

For Petitioner :Mr.V.Balaji

ORDER

The defendant in O.S.No.34 of 2011, on the file of the Additional Sub-Court, Karur, has come up with the present civil revision petition challenging the order, dated 10.06.2014 passed in Memo in S.R.No.3622 of 2014 in O.S.No.34 of 2011.

2.The respondent as plaintiff, instituted the suit in O.S.No.34 of 2011 against the petitioner for partition and for separate possession. The petitioner has filed his written statement and contesting the suit.

3.The grievance of the petitioner is that the respondent/plaintiff has given a xerox copy of the Accounts Statement written in his own hand-writing, but subsequently, the same has not been produced before the Court. So, he gave notice under Section 66 of the Indian Evidence Act, 1872. Despite the same, he has not produced and therefore, he filed a memo, dated 11.03.2014 for production of original Account Statement copies.

4. The respondent filed his objection to the memo and in his evidence, he has categorically stated that he has not given alleged account statement to the defendant and it was not written by him. He is not having the original Account statement and



therefore, he could not produce the same. The trial Court accepting the objections, rejected the memo. Against the above said order, the present revision is filed.

5. Heard Mr.V.Balaji, learned counsel appearing for the petitioner and perused the materials available on record.

6. The learned counsel appearing for the petitioner would submit that the original unwritten Accounts Statement copy is with the plaintiff and he has deliberately refused to produce the same before the trial Court and has also given a false evidence in this case, stating that the accounts statement was not written by him and the original copy is not available with the plaintiff. It is further submitted that as per Section 66 of the Tamil Nadu Indian Evidence Act, secondary evidence could be marked in the facts like this. However, the trial Court has not permitted the defendant/petitioner to produce the xerox copy of the accounts statement.

7. It is seen from the records that the plaintiff has given evidence to the effect that the xerox copy of the accounts statement was not written by him nor he has the original statement. The trial Court has rightly accepted the objection and rejected the memo. Hence, I do not find any illegality or irregularity in the order impugned in this revision. In the result, the civil revision petition is dismissed. No costs. Consequently, the connected C.M.P is also closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The Additional Subordinate Judge, Karur.

+1cc to Mr.V.BALAJI, Advocate Sr.No.31614

NS

AA/KBM/28.07.2016/2p-3c

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