



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

CRP (MD) No.1867 of 2016
and CMP (MD) No.8946 of 2016

A.Sellavel

... Petitioner

vs.

Subramani

... Respondent

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order made in I.A.No.765 of 2012 in O.S.No.511 of 2005 by the Principal District Munsif Court, Dindigul dated 19.08.2015.

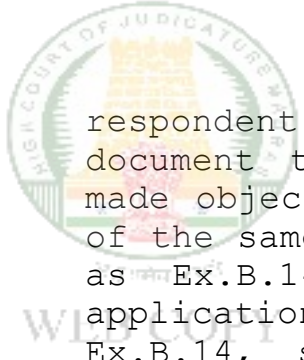
For Petitioner : Mr.M.P.Senthil
for Mr.D.Venkatesh

For Respondent : Mr.H.Lakshmi Shankar

O R D E R

The Civil Revision Petition is filed by the petitioner against the order dated 19.08.2015 passed in I.A.No.765 of 2012 in O.S.No.511 of 2005 by learned Principal District Munsif, Dindigul.

2.According to learned counsel for the petitioner, the petitioner herein filed a suit in O.S.No.511 of 2005 before the learned Principal District Munsif, Dindigul, seeking the relief of declaration as well as permanent injunction with regard to a 'channel' in Survey No.53/5 and 54/1 at Maangkarai Village, Dindigul District. In the said suit, the respondent filed his written statement disputing the averments in the plaint and prayed for dismissal of the suit. During the course of trial, one Saravanan, who was working as Junior Engineer, Palani Nangancharu Reservoir Project was examined as D.W.6. No notice was served on the petitioner, prior to the examination of the said witness. During the course of examination of D.W.6, an attempt was made to mark a document, which do not contain any detail with regard to the author of document as well as the signature of the authority who issued it and moreover the said document is not relating to the office of D.W.6. In view of the objections made on the side of the petitioner, the trial Court did not mark the same, however, the said document is kept in the Court bundle. Thereafter, the petitioner filed a petition to recall P.W.4, since the very evidence of D.W.6 is wholly without any authority and the trial Court was pleased to allow the petition. Subsequently, the



respondent made an attempt once again to mark the disputed document through P.W.4. The learned counsel for the petitioner made objection for marking the said document through him. In spite of the same, learned Principal District Munsif marked the document as Ex.B.14. In the said circumstances, petitioner filed an application in I.A.No.765 of 2012 to eschew the document marked as Ex.B.14, stating the above facts. However, learned Principal District Munsif mechanically dismissed the application stating that the relevancy of the document could be decided during the course of hearing of the suit. Therefore, the present Civil Revision Petition has been filed before this Court.

3. According to learned counsel for the respondent, the marking of the document under Ex.B.14 by the respondent is only to establish his case. The said document is certified copy of a Public document. Therefore, there is no legal impediment in marking the said document through P.W.4. Further, the objection made by the petitioner has been recorded by the trial Court and the issue can very well be adjudicated at the time argument in the suit. Therefore, the application filed by the petitioner was rightly dismissed by the trial Court and the same does not warrant interference by this Court.

4. I have considered the rival submissions and perused the material documents carefully.

5. It is an admitted fact that the petitioner has filed the suit O.S.No.511 of 2005 before the learned Principal District Munsif, Dindigul, seeking declaration and permanent injunction. During the course of examination of D.W.6, the respondent made an attempt to mark a document. That was objected by the petitioner. Thereafter, an application was filed to recall P.W.4 and the same was allowed. While reexamining P.W.4 the above said document was marked through him as Ex.B.14. Hence, the petitioner filed a petition in I.A.No.765 of 2012 to eschew the document marked as Ex.B.14.

6. According to learned counsel for petitioner P.W.4 is not the author of the document and the same also did not belong to the Department of P.W.4. Therefore, the trial Court has to eschew the document marked as Ex.B.14 by the respondent through P.W.4.

7. The petitioner herein has objection to mark the document Ex.B.14 through P.W.4. Such objection was also found place in the order of the Court below. Therefore, there is an opportunity for the petitioner to raise all the grounds before the trial Court at the time of arguments of the suit. Therefore, the impugned order does not warrants interference by this Court. Therefore, the Civil Revision stands dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition also stand dismissed.



8. Both learned counsel agreed for a direction to dispose of the suit itself within a period of one month. In view of the above, in the interest of Justice, if there is no other legal impediment, learned Principal District Munsif, Dindigul, is directed to dispose of the suit in O.S.No.511 of 2005, pending before him, as expeditiously as possible, preferably, not later than two months from the date of receipt of a copy of this order, as per the provisions of Law. Both the parties shall also cooperate for the speedy disposal of the suit.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To
The Principal District Munsif,
Dindigul.

+1cc to Mr.H.Lakshmi Shankar, Advocate Sr.No.58611/16

sj

sm:Sk-skn:14.12.2016:3P/3C

CRP (MD) No.1867 of 2016
and CMP (MD) No.8946 of 2016
04.10.2016