



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE D.KRISHNAKUMAR**

C.R.P (MD) Nos.1185, 1186 and 1187 of 2011(PD)

Arputha Kanagaraj

.. Petitioner in all cases

Vs.

1.Tamil Nadu State
through the District Collector,
Thoothukudi District.

2.Tahsildar,
Sathankulam Taluk,
Thoothukudi District.

.. Respondents in all cases

Common Prayer : These Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed in I.A.Nos.1061 of 2010, 1062 of 2010 and 1087 of 2010 in O.S.No.53 of 2008 on the file of the learned District Munsif Court, Sathankulam, dated 16.12.2010.

For Petitioner : Mr.M.P.Senthil
in all cases

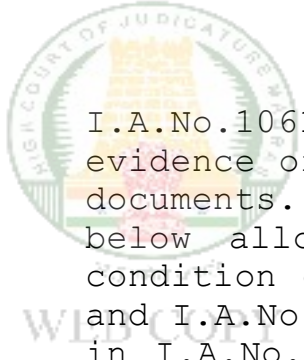
For Respondents :Mr.G.Muthukannan
Government Advocate
in all cases

COMMON ORDER

These civil revision petitions are filed to set aside the fair and decreetal order passed in I.A.Nos.1061 of 2010, 1062 of 2010 and 1087 of 2010 in O.S.No.53 of 2008, on the file of the learned District Munsif Court, Sathankulam, dated 16.12.2010.

2. The case of the petitioner is that the petitioner has filed a suit in O.S.No.53 of 2008, on the file of the learned District Munsif, Sathankulam, seeking for the relief of declaration that the suit schedule property belongs to the petitioner and for consequential injunction and for damages.

3. A written statement has been filed by the respondents.
The revision petitioner has filed three applications in



I.A.No.1061 of 2010 for reopen, I.A.No.1062 of 2010 to recall the evidence of PW1 and I.A.No.1087 of 2010, to receive the additional documents. In the above said Interlocutory Applications, the Court below allowed the said application in I.A.No.1601 of 2010 on condition of payment of cost of Rs.1000/- on or before 22.12.2010 and I.A.No.1602 of 2010 was also allowed, if the condition imposed in I.A.No.1601 of 2010 was complied by the petitioner. The other application in I.A.No.1087 of 2010 to receive the documents was dismissed by the Court below, stating that the petitioner has furnished the xerox copies of the Document Nos.12 and 13 as mentioned in the petition schedule property.

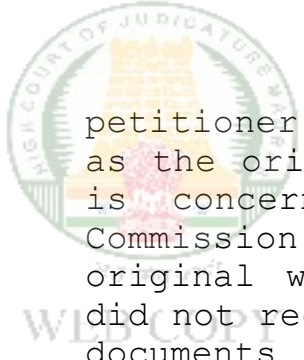
4. The petitioner has filed the present C.R.P.(MD).No.1185 of 2011 against the order in I.A.No.1061 of 2010, in which, the learned counsel for the respondent would submit that the above Interlocutory Application was allowed in favour of the revision petitioner but it was dismissed for non-payment of costs of Rs.1000/- against the revision petitioner. The learned counsel for the petitioner would contend that there is no justification by the order passed by the Court below.

5. The revision petitioner has filed the application in I.A.No.1061 of 2010, to reopen the cases at the time of closure of the defence side evidence. The present application was filed by the petitioner at a belated stage. Therefore allowing the application by compensating the cost would not prejudice the revision petitioner. Hence, this Court will not interfere with the orders passed by the trial court in the said I.A.

6. The learned counsel for the petitioner seeks time for two weeks for the payment of the cost. Therefore accepting the said submission made by the learned counsel for the petitioner, this Civil Revision Petition in C.R.P.(MD).No.1185 of 2011 is disposed of with a direction that the petitioner shall pay the cost of Rs.1000/- within a period of two weeks from the date of receipt of a copy of this order. No orders as to costs.

7. In so far as the other civil revision petition in C.R.P.(MD)No.1186 of 2011, challenge is to the order made in I.A.No.1062 of 2010. The said application filed by the revision petitioner to recall the evidence of PW1 was allowed. Therefore, there is no irregularity or illegality in the said order, warranting interference of this Court. Therefore, the Civil Revision Petition is liable to be dismissed. Hence C.R.P.(MD)No.1186 of 2011 is dismissed. No orders as to costs.

8. In C.R.P.(MD)No.1187 of 2011, challenge is against the order made in I.A.No.1087 of 2010 to reopen the documents, to receive the Document Nos.12 and 13 as mentioned in the schedule of the petition is concerned, an appeal has been preferred before the appellate authority, but however, the



petitioner has filed the xerox copy of the memo of appeal as well as the original acknowledgment card. As far as the Document No.13 is concerned, the appeal has been sent to the Information Commission. The application filed to receive the said documents in original was rejected by the Court below. Hence, the petitioner did not receive the original documents. Therefore, as the original documents cannot be filed, the Court below simply rejected the application on the ground that the petitioner marked only xerox copies of the documents.

9. The learned counsel for the respondent would submit that even though the Court below has rightly dismissed the contention of the petitioner that the xerox copy cannot be marked as per the Indian Evidence Act, in these circumstances, if at all the petitioner having been marked the documents, he can get the authenticated copy and the same shall be filed before the Court below. In view of the application made by the learned counsel for the parties concerned, the learned counsel for the petitioner has also agreed that the authenticated copy will be filed along with the applications and that the present order is to be set aside. In so far as Doc.B12 concerned, he can get the authenticated copy from the Block Development Officer and Doc.B13 is concerned the petitioner has to satisfy the Court below by filing of the said document.

10. The learned Government Advocate cannot have any objection to the submission made by the learned counsel for the petitioner. Therefore, in view of the submission made by the learned counsel for the parties and in the interest of justice, I am inclined to pass the following orders.

11. The order passed in I.A.No.1087 of 2010 is set aside and remanded back to the trial Court to decide the issue afresh on filing the appropriate documents before the Court below, by the petitioner. On receipt of the same, the Court below is directed to decide the matter on merits and in accordance with law.

12. With the above observations, C.R.P.(MD).No.1187 of 2011 is allowed. No orders as to Costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub Assistant Registrar

PJL

To

District Munsif Court, Sathankulam.

JAM/09.03.17 /SKN-RSK/3P-2C

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