

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CRP (PD) Nos.1266, 1267 and 1268 of 2017

Noor Fathima .. Petitioner in all CRP's

..Vs..

1. G.Rajendran
2. G.Kandasamy
3. G.Kamaraj
4. G.Balasubramanian
5. G.Sakthivel
6.G.Kannammal ... respondents in all CRP's

Prayer : Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal orders dt. 13/03/2017 in I.A.Nos.116, 117 and 118 of 2017 in O.S.No.3 of 2013 on the file of the District Munsif/Judicial Magistrate, Parangipettai.

For Petitioner : Ms.R.Meenal
(in all CRP's)
For Respondents : Mr.N.Suresh
(in all CRP's)

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal orders dt. 13/03/2017 made in I.A.Nos.116, 117 and 118 of 2017 in O.S.No.3 of 2013 on the file of the District Munsif/Judicial Magistrate, Parangipettai.

2. The petitioner is the plaintiff and the respondents are the defendants in O.S.No.3 of 2013. The petitioner filed O.S.No.3 of 2013, seeking a relief of permanent injunction restraining the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property.

3. The first respondents filed written statement denying the averments made by the petitioner.

3. In the month of August 2013, trial commenced and after examination of the witnesses on the side of the petitioner/plaintiff and also after completion of evidence on the side of the petitioner/plaintiff, the suit was posted for arguments on behalf of the respondents/defendants.

4. Whiles, the petitioner/plaintiff filed three applications in I.A.Nos.116 to 118 of 2017 to reopen the plaintiff's side evidence for marking of documents, to

recall P.W.1/Plaintiff for marking of documents and to receive the document respectively.

5. According to the petitioner/plaintiff she filed Xerox copy of the Settlement Deed dated 17.02.1970 along with the plaint. When the evidence was let in, the xerox copy of the said document was not marked and the non marking of the settlement deed came to be noticed by the petitioner only when the learned counsel for the respondents/defendants pointed out the same at the time of arguments. The petitioner after due search got certified copy of the settlement deed and prayed for allowing the three applications.

6. The respondents filed the counter affidavit opposing the said applications, stating that P.W.1 in his cross examination has admitted that he was not aware of the non marking of the settlement deed. Earlier, P.W.1 was recalled and some of the documents were marked and at that time petitioner did not produced the document now sought to be marked. The petitioner has not given any reason for non filing of the document now sought to be marked at the time of marking other documents. Therefore, the intention of the petitioner is only to drag on the proceedings and after completion of the evidence on behalf of the petitioner, when the suit was posted for arguments on behalf of the respondents, the petitioner filed three applications to reopen, recall and to receive the document and therefore prayed for the dismissal of the above applications.

7. The learned Judge, considering the averments in the affidavit, counter affidavit and considering the materials on record and after hearing the arguments for parties and Judgment relied upon by the learned counsel for the respondents dismissed all the three applications. Aggrieved against the same, the present Civil Revision Petitions have been filed.

8. The learned counsel for the petitioner submitted that the document now sought to be marked i.e. the settlement deed was already filed as the xerox copy along with the plaint. The respondents have also mentioned in the written statement that the document sought to be marked is a registered document and the therefore the applications to reopen, recall and to receive the document must be liberally considered and these applications are deserved to be allowed.

9. The learned counsel for the caveator would submit that the petitioner has not given any reason for non filing and marking of the documents earlier, especially when the evidence on behalf of the petitioner was reopened and P.W.1 was recalled and documents were marked. After the evidence on the side of petitioner/plaintiff was closed and when the suit was posted for evidence on behalf of the respondents, the petitioner filed these three applications. Though the suit was posted for arguments on behalf of the respondents, the learned Judge has

rightly followed the Judgment relied upon by the learned counsel for the respondents/defendants and dismissed the applications and therefore he prayed for dismissal of these petitions.

10. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the materials on record.

11. The petitioner filed three applications, after evidence on behalf of petitioner/plaintiff was closed and the suit was posted for arguments on behalf of the respondents/defendants. The only reason given by the petitioner is that he came to know about the non marking of the documents only when the counsel for the respondents pointed out at the time of arguments about the non marking of the documents. The said reason is contrary to the facts. P.W.1 in his cross examination has admitted about non marking of documents and the petitioner did not dispute or deny the same. The petitioner as on earlier occasion also filed the applications for reopen, recall and marking of certain documents. It is an admitted fact that these applications are allowed and P.W.1 was recalled and certain documents were marked. Even at that time, the petitioner has not stated as to why the document now sought to be produced was not produced and marked at that time itself.

V.M.VELUMANI, J

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12. The learned Judge by giving correct and valid reasons has dismissed the applications. There is no irregularity or illegality in the said order warranting interference by this Court.

13. In the result, these Civil Revision Petitions are dismissed. No costs.

06.04.2017

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To

The District Munsif/Judicial Magistrate, Parangipettai.

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