

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.01.2017**

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

CRP PD No.2637 of 2014
and
M.P.No.1 of 2014

Dr.Vivekananda Subramania Nathan .. Petitioner

VS

1. Mohammed Yousuff Baig
2. Dr.Latha .. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the interim order dated 08.01.2014 passed by the learned VII Additional Judge, City Civil Court, Chennai in O.S.No.11886 of 2010.

For Petitioner : Mr.Gilbert Pereira

For Respondents : Mr.T.A.Sagul Hameed
for R1
Mr.S.Lokesh for R2

ORDER

The first defendant is the revision petitioner. Being aggrieved by the order passed by the Court below in permitting

the plaintiff to mark the xerox copy of the sale agreement dated 14.02.2006, the present revision is preferred.

2. The first respondent/plaintiff filed the suit seeking specific performance of an agreement to sell dated 14.02.2006. The revision petitioner/first defendant in his written statement had disputed the genuineness of the sale agreement. At the time of trial, only a photocopy of the sale agreement dated 14.02.2006 was marked through PW1. The revision petitioner raised objections to mark the said sale agreement, as it is only a photocopy, which is inadmissible in evidence as per Sections 63 and 65 of the Indian Evidence Act, 1872. However, it is contended by the first respondent/plaintiff that as the original of the sale agreement is only with the revision petitioner/first defendant and since he has not produced the same, the photocopy is being marked.

3. Heard both sides.

4. The very suit has been filed on the basis of the sale agreement. The case of the plaintiff is that as the original is with the first defendant/revision petitioner, he could file only the photocopy of the same. The admissibility of the document can be argued at the time of arguments, as the document has been marked in evidence subject to its proof, relevancy and admissibility. The trial court has also held that the evidentiary value of the photocopy of the sale agreement cannot be decided at that stage and the admissibility of the said document can be decided only at the conclusion of the trial. It is also open to the revision petitioner/first defendant to raise his objection, if any, to the said document, which may be recorded by the learned trial Judge and consider the same for the purpose of giving judgment.

5. Therefore, the order dated 08.01.2014 passed by the learned VII Additional Judge, City Civil Court, Chennai in permitting the plaintiff to mark the document, subject to its proof, relevancy and admissibility need not be set aside. Accordingly, the Civil Revision Petition is disposed of with the observation that the admissibility of the documents marked, may

be decided at the time of trial, subject to the objections that may be raised by the revision petitioner/first defendant. No costs. Consequently, the connected miscellaneous petition is closed.

23.01.2017

vj2

Index: yes/No

Internet: yes

To

The VII Additional Judge, City Civil Court, Chennai

PUSHPA SATHYANARAYANA,J.,

vj2

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