

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).Nos.735 & 736 of 2017
and C.M.P.Nos.3637 & 3638 of 2017

A.Mohammed Hashim

... Petitioner in both C.R.Ps

Vs.

Mohammed Affan

... Respondent in both C.R.Ps

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order dated 06.01.2017 made in I.A.Nos.17170 & 17171 of 2016 in O.S.No.23 of 2015 on the file of the XIII Assistant Judge, City Civil Court, Chennai.

For Petitioner in both C.R.Ps : Mr.P.Rathanavel

For Respondent in both C.R.Ps : Mr.S.Senthil Nathan
for M/s.K.Manikandan

COMMON ORDER

Challenging the fair and decreetal orders passed in I.A.Nos.17170 & 17171 of 2016 in O.S.No.23 of 2015 on the file of the XIII Assistant Judge, City Civil Court, Chennai, the defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.23 of 2015 for permanent injunction.

3. When the suit was posted for arguments, the defendant filed an applications in I.A.No.17170 of 2016 to re-open the evidence on the side of the defendant and I.A.No.17171 of 2016 to re-call and examine D.W.1 to mark some documents. In the affidavit filed in support of the petitions, the defendant has stated that he wants to mark the plaint in O.S.No.3761 of 2013, the judgment and decree dated 29.02.2013 and the affidavit and petition, along with the docket order in I.A.No.10671 of 2013. The applications filed by the defendant was opposed by the plaintiff stating that those documents were already marked and hence, there is no necessity to mark the documents again. The trial Court, taking into consideration the case of both parties, dismissed the petitions stating that the documents sought to be marked as additional documents by the defendant were already marked as Exs.A4, A5 & A12 through P.W.1, hence, there is no necessity for marking the documents again.

4. However, the learned counsel appearing for the petitioner submitted that the defendant is seeking to mark the documents in the plaint in O.S.No.3761 of 2013 and not the plaint alone.

5. On a perusal of the plaint in O.S.No.3761 of 2013, it is clear that there are seven plaint documents mentioned therein. However, the defendant has not

mentioned the details of the said documents in the affidavit filed in I.A.No.17170 of 2016, therefore, the contention of the learned counsel cannot be accepted. The defendant has specifically mentioned only four documents (i.e.) the plaint in O.S.No.3761 of 2013, the judgment and decree dated 29.02.2013 and the affidavit and petition, along with the docket order in I.A.No.10671 of 2013. In these circumstances, the submission made by the learned counsel for the petitioner is liable to be rejected. Accordingly, the same is rejected. The trial Court, taking into consideration all these aspects, has rightly dismissed the petitions.

6.I do not find any error or irregularity in the orders passed by the trial Court. The Civil Revision Petitions are devoid of merits and the same are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
va

15.03.2017

To

The XIII Assistant Judge,
City Civil Court,

Chennai.

M. DURAISWAMY,J.

va

**C.R.P.(PD).Nos.735 & 736 of 2017
and C.M.P.Nos.3637 & 3638 of 2017**

15.03.2017

<http://www.judis.nic.in>