

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.251 of 2015

and

M.P.No.1 of 2015

N.Sampath Kumar
Represented by his Power Agent
S.Arokiya Rani

.. Petitioner

Vs.

Thulasi @ Thulasiammal

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to strike out the Memo filed by the respondent/defendant, marked as Exs.R-1 to R-18 in I.A.No.7607 of 2014 in O.S.No.2557 of 2014 on 24.11.2014 made by the learned XVI Assistant City Civil Judge, Chennai.

For petitioner : Mr.N.Anand

For respondent : No appearance

ORDER

Though the respondent is represented by a counsel, there is no appearance for the respondent either in person or through counsel.

2. The plaintiff is the revision petitioner. He has filed O.S.No.2557 of 2014 on the file of the 16th Assistant City Civil Court, Chennai for

permanent injunction against the defendant. Along with the suit, I.A.No.7607 of 2014 was also filed by the plaintiff for interim injunction, which was granted by the trial Court on 08.05.2014. It is posted for the response of the defendant. While so, the defendant has also filed his counter affidavit in the application and also the written statement in the suit. At that time, he has not produced any documents. All of a sudden, the defendant has filed a Memo, dated 24.11.2014 and sought for permission from the Court to receive the documents in evidence. Though it was objected to by the revision petitioner-plaintiff, it is received in evidence on 24.11.2014 and the documents were marked as Exs.R-1 to R-18. The said order passed in the Memo is now challenged in this revision petition.

3. The objection of the revision petitioner/plaintiff is that the documents cannot be marked without an application being filed. At least, the said documents should have been filed along with the written statement or the counter statement. The Memo also does not disclose the list of documents to be marked. The plaintiff has also not been furnished with the copies of such documents filed by the defendant. In such circumstances, the trial Court ought not to have received the documents in evidence without proper procedures.

4. The objection raised by the plaintiff/revision petitioner seems to be acceptable, as the defendant has not followed any of the procedures prescribed under the Code of Civil Procedure for marking the documents. It

is only to avoid the technical defect, the documents are sought to be marked on the Memo. The copies of such documents, has also not been furnished to the revision petitioner/plaintiff, before marking the same. Therefore, the procedure adopted by the trial Court is not in accordance with law, and hence, the impugned order passed on the said Memo has to be set aside.

5. Accordingly, the impugned order, dated 24.11.2014 passed on the said Memo, is set aside. It is open for the defendant to mark the documents in the manner known to law. The Civil Revision Petition is accordingly disposed of. No costs. The Miscellaneous Petition is closed.

25.01.2017

Index: Yes/no

Internet: Yes/no

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Copy to

The 16th Assistant Judge,
City Civil Court, Chennai.

PUSHPA SATHYANARAYANA,J

CS

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