

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 3TH DAY OF AUGUST 2017

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A.No.3811 of 2017

in

C.S.No.398 of 2012

Mr.S.Rajagopalan,

s/o.A.M.Subramanian,

Res: Parvathy Illam, Plot No.328-G,

III Main Road, Viduthalai Nagar,

Sunnambu Kolathur,

Chennai-600 117.

...Petitioner/Plaintiff

-Vs-

1.Mr.N.Jayamurugan,

S/o.P.Natesan,

Res: No.384, I Street, Viduthalai Nagar,

Sunnambu Kolathur,

Chennai-600 117.

2.Col.S.Krishnan,

S/o.Dr.K.Sankaranarayanan,

No E-3, Sneha Sadan,

Karpagam avenue,

Chennai-600 028.

3.Mrs.R.Jeyachithra,

W/o.Mr.Ramesh,

'Adyar CD World'

No.2, Sardar Patel Road,

Adyar,

Chennai-600 020.

...Respondents/Defendant

A.NO.3811 of 2017:-

Application praying that this Hon'ble Court be pleased to for leave to file additional documents in C.S.No.398 of 2012 should not be allowed.

This Application coming on this day before this court for hearing the court made the following order:

This Application has been filed by the applicant / plaintiff seeking leave to file additional documents in the suit.

2. In the affidavit filed in support of the said documents, it had been stated that the suit had been filed for a direction against the defendants 1 and 2 to pay a sum of Rs.58,80,000/- together with interest and for a declaration that a mortgage deed dated 27.07.2009 registered as Document No.2733 of 2007 is non-est , null and void and not binding on the plaintiff. It had been stated that the documents relating to bank accounts, encumbrance certificates, legal opinion and letters were not filed along with the plaint and they are now sought to be filed as additional documents for consideration during the trial.

3. A counter has been filed by the first respondent / first defendant. He had stated that among the documents, documents listed as 1-5 and 9 relate to the bank account of the applicant and his wife for the period ending with 2009 and consequently, when the suit was instituted in the year 2012, the documents were available and the reasons for non-production was not given. It is specifically stated that the documents in Serial Nos.6,7,8,10, 11 and 14 are documents relating to the property belonging to the first

respondent and consequently, they may not be relevant to the case of the plaintiff. Learned counsel for the first respondent also stated that under Order VII Rule 14(1) C.P.C, documents should be produced at the time of institution of the suit. However, a caveat is also given under Order VII Rule 14(3) under the Code of Civil Procedure Code that with the leave of the Court, additional documents can be given.

4. This is a suit filed seeking a direction for payment of money as well as for declaration that a mortgage deed is null and void. The bank statements are relevant to a limited extent. With respect to the relief sought insofar as the mortgage is concerned, the encumbrance certificate of the property is also necessary. It is a fact that the plaintiff had not produced the same at the time of institution of the suit. However, for that single reason, the applicant/plaintiff cannot be denied the opportunity of projecting his case. The objections raised by the learned counsel for the respondents can be raised at the time when each and every document is presented for marking and it is hoped that the learned Master would also record each one of the objections individually and separately. Objections may be raised with respect to admissibility, proof and relevancy. These objections to be answered at the time of advancing argument after conclusion of trial. This is also in accordance with the ruling of the Hon'ble Supreme Court in **2001 (3) SCC 1[Bipin Shantilal Panchal -vs-State of**

Gujarat and another].

4. With such observations, this application is allowed.

Sd/-C.V.K.J

03.08.2017

//Certified to be a true copy//

Dated this the day of 2017.

EM/07.08.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.