

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.380 of 2015
& M.P.No.1 of 2015

K.Kalaipithan @ K.(Sulur) Kalaipithan .. Petitioner

Vs.

1.Shanmugavalli
2.N.Velmanikannan
3.N.Karthikeyan
4.Sasikala

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 31.10.2014 made in I.A.No.887 of 2014 in O.S.No.1278 of 2013 on the file of the III Additional Subordinate Court, Coimbatore.

For Petitioner : Mr.M.Sudharsan

For Respondents : Mr.P.Saravana Sowmiyan

ORDER

Civil Revision Petition is filed against the fair and decretal order dated 31.10.2014 made in I.A.No.887 of 2014 in O.S.No.1278

of 2013 on the file of the III Additional Subordinate Court, Coimbatore.

2. The petitioner is defendant and respondents are the plaintiffs in O.S.No.1278 of 2013 on the file of the III Additional Subordinate Court, Coimbatore. The petitioner filed written statement on 28.01.2014 and is contesting the suit. Trial commenced and the respondents filed proof affidavit. They filed I.A.No.887 of 2014 under Order VII Rule 14 C.P.C. to condone the delay in filing documents mentioned in the petition and to permit the respondents to produce the same through P.W.1. According to the respondents, along with the plaint, they filed xerox copies of the documents now sought to be filed. The original documents were traced only at the time of filing of the application and filed the present application. Hence, they prayed for condonation of delay in filing the documents.

3. The petitioner filed counter affidavit and opposed the said application. According to the petitioner, P.W.1 has stated that original sale deed now sought to be marked was lost even during the life time of his father and P.W.1 is not aware of the said

document. The respondents are now filing the registration copy of the sale deed, which cannot be marked. The respondents may be directed to produce the original document and prayed for dismissal of the application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit, averments made in the plaint and materials available on record, allowed the application.

5. Against the said order dated 31.10.2014 made in I.A.No.887 of 2014, the present Civil Revision Petition is filed by the petitioner/defendant.

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

7. The learned counsel for the petitioner contended that the respondents failed to comply with the mandatory provision of Order VII Rule 14 C.P.C., when they presented the plaint and they have not given any reason for not filing the documents earlier. These contentions are without merits.

8. From the copy of the plaint filed in the typed set of papers and averments made in the affidavit filed in support of the present application, it is seen that the respondents have filed xerox copies of the documents along with the plaint at the time of filing of the suit. The respondents have stated that the documents now sought to be marked were not filed at the time of filing of the suit and the same were traced only at the time of filing of the present application. The contention of the learned counsel for the petitioner is that the respondents are producing registration copy of the sale deed dated 24.02.1988 and the same cannot be marked in evidence.

9. The learned Judge while allowing the application has held that the petitioner will have an opportunity to cross-examine the witnesses on behalf of the respondents with regard to the documents now sought to be substituted. It is open to the petitioner to object to marking of the documents as and when the documents are produced. The learned Judge will consider the objection of the petitioner and admissibility and relevancy of the documents produced by the respondents.

10. For the above reasons, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.12.2017

Index : Yes/No

kj

To

III Additional Subordinate Judge, Coimbatore.



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V.M.VELUMANI, J.

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