

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4200 of 2015
and M.P.No.1 of 2015

Archi bald Devasahayam

.. Petitioner

Vs.

A.Johnson

.. Respondent

PRAYER: Civil Revision Petition filed under section 115 of C.P.C, against the order made in R.A.No.47 of 2014 in O.S.No.34 of 2009 dated 02.03.2015 on the file of the District Munsif Court, Tambaram, Kancheepuram District.

For Petitioner : Mr. S.Udhaya Kumar

For Respondent : No appearance

ORDER

The Civil Revision Petition is filed against the order made in R.A.No.47 of 2014 in O.S.No.34 of 2009 dated 02.03.2015 on the file of the District Munsif Court, Tambaram, Kancheepuram District.

2. The petitioner is the defendant and respondent is the plaintiff in O.S.No.34 of 2009. The respondent filed the said suit for declaration declaring that the revocation of the settlement deed dated 10.01.1996 is void and illegal. The said suit was dismissed. Challenging the same, the respondent filed A.S.No.14 of 2013 and the same was also dismissed. The petitioner filed memo in the trial Court in R.A.No.47 of 2014 in O.S.No.34 of 2009 for return of original documents marked as Exs.B1 to B10 for safe custody.

3. The respondent filed counter stating that he has filed second appeal and the second appeal is in SR stage. The respondent also produced photographs to show that the petitioner is developing the property by clearing bushes with an intention to sell the property to third party. If the documents are returned, the petitioner will sell the property to third party and objected to return of documents.

4. The learned Judge dismissed the memo on the ground that the second appeal is a continuation of the suit.

5. Against the said order dated 02.03.2015 made in R.A.No.47 of 2014 in O.S.No.34 of 2009, the present Civil Revision Petition is filed by the petitioner.

6. Heard the learned counsel for the petitioner and perused the materials on record.

7. The respondent made objection for return of the documents on the ground that he has filed second appeal. When the Civil Revision Petition was taken up for hearing, there was no representation on behalf of the respondent on 25.10.2017 and 27.10.2017. Today also, there is no representation on behalf of the respondent.

8. The learned counsel appearing for the petitioner filed additional typed set of papers enclosing the judgment dated 08.06.2017 dismissing S.A.No.963 of 2016, which is filed against the judgement and decree passed in A.S.No.14 of 2013.

9. In view of the dismissal of S.A.No.963 of 2016 and no proceedings is pending, the original documents sought for by the petitioner can be returned to him on filing of the certified copies of the documents issued by the Court and on filing an undertaking affidavit that he will produce the original documents as and when required by the Court.

10. The Civil Revision Petition is allowed with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

01.11.2017

vum/kj

To

The District Munsif

Tambaram, Kancheepuram District.

V.M.VELUMANI,J.

vum/kj

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