

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 09.02.2017**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**

**CRP(PD)No.3598 of 2010  
and  
M.P.No.1 of 2010**

1.K.Annamalai

2.Kumari

3.Revathy

4.Palani

5.Geetha

6.M.Kannan

.. Petitioners

**Vs.**

1.Bethania Residence Welfare Society,  
Rep. by its President Jeyavelu and  
Secretary Arulsekaran  
No.17, Annai Sindhia Street,  
Valasarawalkam, Chennai – 600 087.

2.K.Loganathan

3.Mohammed Basha

4.Murthy

..Respondents

(Respondents 2 to 4 are not necessary  
party in CRP, hence respondents 2 to 4  
may be given up)

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order of the learned Additional District Munsiff, Poonamallee, dated 13.09.2010 made in I.A.No.557 of 2010 in O.S.No.532 of 2002.

For Petitioners : Mr.M.Kalyanasundaram, Senior Counsel

For Respondents : Mr.N.R.Gopalan (for R1)

### **ORDER**

The petitioners are the Defendant Nos.2,4,5,6,7, and 8 in the original suit in O.S.No. 532 of 2002. They filed a petition under Order 11 Rule 14 of C.P.C to direct the Respondent/Plaintiff to produce certain documents.

2.The short facts pleaded in the petition are that the Respondent/Plaintiff filed the suit on the basis of the sale agreement dated 23.09.1979 entered into with one Govindasamy. But the said agreement was entered into with Bethaniya Co-Operative Building Society not by the Respondent/Plaintiff Society. During the cross examination of the plaintiff, the said agreement dated 23.09.1979 was marked as Exhibit B1. Further, the President of the Plaintiff deposed that the name of the Plaintiff Society is amended in the

present name. He also deposed that annual general body meeting are conducted properly, minutes books are properly maintained and the accounts of the society are audited periodically.

3.Further, the case of the Revision Petitioner is that the Respondent/Plaintiff himself has agreed to produce the By-laws of the Plaintiff Society, minutes book, and Auditor statements of accounts of the society. So, the Revision Petitioners/Defendants Nos. 2,4,5,6,7, and 8 before the trial court filed a petition for the production of the said documents.

4.Per contra, the Respondent/Plaintiff filed counter statement before the trial Court wherein, it is contended that the petition filed by the Revision Petitioner is unnecessary and the points raised in the interim petition were already went up to the High Court and there is no scope that the production of the documents in the adjudication of the present suit and prayed for dismissal.

5.I heard Mr.M.Kalyanasundaram, learned senior counsel appearing for the petitioners and Mr.N.R.Gopalan, learned counsel appearing for the 1<sup>st</sup> respondent and perused all the materials available on records.

6.It is the case of the petitioners are that the defendant Nos.2,4,5,6,7, and 8 filed a petition for the production of certain documents mentioned in the affidavit. Further, according to the Revision Petitioners that the documents seeking for the production will be helpful for the decision of the case. Further, the availability of those documents has been admitted during the cross examination of the Respondent/Plaintiff. At the same time, it is the case of Respondent/Plaintiff that the sale agreement dated 23.09.1979 entered with one Govindasamy is the crux of the matter which went up to the High Court culminating into the filing of A.S.No.374 of 1987 by the said Govindasamy. However, it is not in dispute that the said Appeal Suit was dismissed. The Respondent/Plaintiff has also urged that the Defendant Nos.4 to 7 are none other than, but the legal heirs of the said Govindasamy. After putting few questions on behalf of Defendant Nos.4 to 9 in the cross examination, the petition filed for the production of documents is not in accordance with law.

7.The learned trial Court has held that the documents sought to be produced to ascertain the existence of the Respondent Society as on the date of sale agreement dated 23.09.1979 will no way be helpful and not essential to decide the issues involved in the suit.

However, the learned trial court failed to consider that the Respondent/Plaintiff once accepted that he can produce these documents which are now sought to be produced can no longer is entitled to refuse to produce those documents. It is not the case of the Respondent/Plaintiff that the documents sought to be produced were already testified in any of the judicial proceedings in respect of the sale agreement dated 23.09.1979 though went up to high Court.

8.In such circumstances in the considered opinion of the court that the production of the documents will no way be a cause any prejudice for the Respondent/Plaintiff. Further, it was admitted by the Respondent/Plaintiff that he was ready to produce the documents sought for production. In such circumstances this Court has no hesitation to hold that the prayer of the revision petitioner is entitled or consideration owing to the warranting circumstances as narrated by the petitioners/defendants Nos.2, 4,5,6,7, and 8. Hence the order passed by the learned trial court in I.A. No.557 of 2010 dated 13.09.2010 is set-aside and the Civil Revision Petition is allowed. However, taking note of the fact that the suit is of the year 2002, the following directions are necessary for rendering meaningful justice.

9.In the result:

(a) this Civil Revision Petition is allowed by setting aside the order in I.A.No.557 of 2010 in O.S.No.532 of 2002, dated 13.09.2010, on the file of the Additional District Munsiff, Poonamallee;

(b) the trial Court is directed to instruct the Respondent/Plaintiff to produce the documents sought for by the defendant Nos.2, 4,5,6,7, and 8 at the earliest preferably within a period of two weeks from the date receipt of copy of this order;

(c) the trial Court is directed to complete the trial proceedings with in a period of 3 months from the date of receipt of copy of this order or in any circumstances on or before 31<sup>st</sup> day of August 2017.

(d) the trial Court is directed not to give any unwarranted and unnecessary adjournments for either party of the original suit.

10. With these observations, this Civil Revision Petition is allowed. Considering the totality of the case there is no order as to costs. Consequently, connected miscellaneous petition is closed.

**09.02.2017**

Internet:Yes  
Index:Yes

vs

To

The Additional District Munsiff,  
Poonamallee.

**M.V.MURALIDARAN, J.**

VS

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