

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD) Nos.3333 of 2016 and 3365 of 2016
and C.M.P.No.17064 of 2016

R.Joan Mary Santhakumari .. Petitioner in both C.R.Ps

VS

1. R.Vishwanathan

2. P.Rajendran

3. Udhayakumar

.. Respondents in both
C.R.Ps

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 07.09.2016 passed by the learned District Munsif, Tambaram in I.A.Nos.721 and 722 of 2016 respectively in O.S.No.179 of 2014.

For Petitioner
in both C.R.Ps

:Ms.T.Jayalakshmi
for M/s.Paul and Paul

For Respondents
in both C.R.Ps

:Mr.K.Nagarajan

COMMON ORDER

The plaintiff is the revision petitioner in both the revisions.

2. Aggrieved by the order passed by the Court below in I.A.Nos.721 and 722 of 2016 in refusing to re-open and recall the plaintiff's side evidence, the present revisions have been filed.

3. Heard both sides.

4. The case of the revision petitioner is that the second respondent, being the power agent of first respondent, had claimed that both of them had purchased the suit scheduled property in the year 1982 in an auction conducted in I.P.No.76 of 1971, but the said fact has neither been stated in the pleadings nor any document have been produced to that effect by them. Therefore, in order to establish the same, she wanted to summon those documents and also to call for the records with respect to I.P.No.76/71. Hence, the above applications have been filed to re-open the plaintiff's side evidence and to recall PW1. The learned

trial Judge had given a finding that the defendants have already referred about the purchase of the property in the year 1971 itself in an insolvency proceedings in their written statement and had also marked the photocopy of the list of insolvency property and that the petitioner has not taken any steps at the beginning of her evidence and had filed the above applications, that too, when the matter is posted for arguments. Further, the learned trial Judge has held that if the defendants claim that they are the owner of the suit property, having purchased the same in an insolvency auction, it is for them to establish. Accordingly, dismissed the applications.

5. *De hors* the evidence let in by the respondents/defendants, the revision petitioner/plaintiff has to establish her case, independently. It is also not stated by the revision petitioner as to how the documents relating to the insolvency proceedings are relevant to the present case. Besides the applications are taken out by the revision petitioner/plaintiff after the completion of the trial. In view of the same, the Court

below has rightly dismissed the applications.

6. It is also well settled that Order 18 Rule 17 of the Code of Civil Procedure cannot be ordered for the sake of mere asking, unless the Court feels that it will be difficult for adjudicating the matter, without recalling of a party or marking of such documents. Such a situation has not arisen in this case. Therefore, no interference is warranted in the orders passed by the Court below. Accordingly, both the revisions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

vj2

05.01.2017

Index: Yes/No

Internet: yes

To

The District Munsif,
Tambaram

PUSHPA SATHYANARAYANA.J

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