

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No. 2538 of 2013 and
MP.No.1 of 2013

Sivakolundu

...Petitioner

Vs

Jayakumar

...Respondent

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, as against the fair and final order of the Principal District Munsif Court, Mayiladuthurai, dated 07.12.2012 made in I.A.No.389/2012 in O.S.No.181/2011.

For Petitioner : Mr.S.Sounthar
For Respondent : Mr.Srinath Sridevan

ORDER

This Civil Revision Petition is directed against the order dated 7 December 2012, dismissing the application filed by the petitioner to condone the delay in producing the document.

2. Heard the learned counsel for the petitioner and the respondent.

3. The petitioner was arrayed as second defendant in O.S.181 of 2011. The petitioner produced an unregistered document dated 11.07.2011, indicating that the first defendant in the suit conveyed his possessory right in his favour. Since the document was not produced earlier, the petitioner filed an application to condone the delay. The application was opposed by the respondent.

4. The learned Trial Judge dismissed the application on the ground that being an unregistered and unstamped document, it cannot be received in evidence. Feeling aggrieved by the order, the petitioner has come up with this civil revision petition.

5. The learned counsel for the petitioner contended that even before condoning the delay, the learned Trial Judge examined the merits of the document and rendered an adverse finding against the petitioner. According to the learned counsel, the question of passing an order to receive the document would arise only after condoning the delay. In short, it is the contention of the petitioner that the relief is only to condone the delay and not to receive the document at this point of time.

6. I have also heard the learned counsel for the respondent.

7. The Trial Court dismissed the application solely on the ground that

being an unregistered document, it cannot be received in evidence. The primary relief in the application in I.A.389 of 2012 was to condone the delay in receiving the document. The learned Trial Judge considered the evidentiary value of the document and rendered an adverse finding. Such a stage has not arisen, in view of the fact that the application before the Court was only to condone the delay. I am therefore of the view that the Trial Court was not correct in dismissing the application.

8. In the result, the order dated 7 December, 2012 is set aside. The application in I.A.No.389 of 2012 is allowed.

9. The learned Trial Judge is directed to decide the evidentiary value of the document before permitting the petitioner to mark the document in evidence. It is needless to mention that reasonable opportunity should be given to the respondent to oppose the prayer for marking the document and an order on merits should be passed by the trial Court.

10. The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

17.04.2017

asi/svki

K.K.SASIDHARAN,J.

asi/svki

To

Principal District Munsif Court,
Mayiladuthurai,

C.R.P.(P.D.) No. 2538 of 2013

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