

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.04.2017**

CORAM:

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

C.R.P.(P.D.) Nos.4134 to 4136/2008

Kanchan Devi : Petitioner

versus

1.Arulmighu Thiruvateeswara Devasthanam,
rep. By its Executive Officer,
Thiruvateswaranpettai,
Chennai 600005

2.S.Gurusamy Nadar : Respondents

PRAYER: Civil revision petitions filed against the order dated 3.11.2008, in I.A.Nos.15195, 15193, 15194 of 2008 in O.S.No.1187 of 1997 on the file of the XVIII Assistant Judge, City Civil Court, Chennai.

For petitioner :: Mr.K.Bijai Sundar

For respondents :: Mr.D.R.Sivakumar, for R-1

COMMON ORDER

The first respondent after conclusion of evidence and partly arguing the matter, filed three applications before the Trial Court to reopen the evidence, recall P.W.1 and receive certain documents. The applications were allowed by the learned XVIII Assistant Judge, City Civil Court, Chennai notwithstanding the objection raised by the petitioner that it was the fourth application filed by the first respondent to receive the documents.

Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that in view of the deletion of Rule 17-A CPC, the Trial Court was not correct in entertaining an application to receive the documents. According to the learned counsel, it was long after the conclusion of evidence and that too after partly hearing the matter, the first respondent filed the applications. The learned Trial Judge without considering the background facts, allowed the applications. The orders are therefore bad in law.

3. I have also heard the learned counsel for the first respondent.

4. The first respondent filed the suit in O.S.No.1187 of 1997 for recovery of possession and other incidental reliefs. The suit was contested by the petitioner by filing written statement.

5. The first respondent after partly arguing the matter, filed three applications primarily to receive certain documents. Before the Trial Court, the petitioner contended that it was the fifth application filed by the first respondent to receive the document and as such, there is absolutely no bona fides. The Trial Court notwithstanding the said objection, exercised the discretion and allowed the applications.

6. Even where there is no express provision, it is open to the Courts

to receive documents in case the Court is of the view that interest of justice would be sub served only by receiving documents. The Court is entitled to exercise the inherent jurisdiction under Section 151 CPC. In the subject case, the Court exercised the discretion and permitted the first respondent to produce documents. The first respondent is a Devasthanam. The attempt of the first respondent is to protect the idol, which is a minor. In the subject case, the first respondent demonstrated that certain vital documents were not filed earlier. It was only to mark those documents, the first respondent filed the interlocutory application. In view of the background facts, I do not find any reason to take a different view in the matter.

7. The first respondent is permitted to mark the documents and for the said purpose, to recall the witness already examined. The documents shall be marked subject to proof and relevancy. The petitioner should be permitted to cross examine the witness, with respect to the documents produced by the first respondent. Since this is the fifth application, the learned Trial Judge should see that no more application is filed by the first respondent in the subject suit. There shall be a further direction to the learned Trial Judge to dispose of the civil suit in O.S.No.1187 of 1997 as expeditiously as possible and in any case on or before 31 July 2017.

K.K.SASIDHARAN, J.

(tar)

8. The civil revision petitions are disposed of with the above direction. No costs. Consequently, M.P.No.1 of 2008 is closed.

04.04.2017

Index:Yes/no
tar

To

The XVIII Assistant Judge, City Civil Court, Chennai

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