



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.156 of 2017 (PD)

and

C.M.P(MD)No.619 of 2017

N.Rajaram

.. Petitioner/Respondent/
Plaintiff

Vs.

Nilopher Nisha

.. Respondent/Petitioner/
2nd Defendant

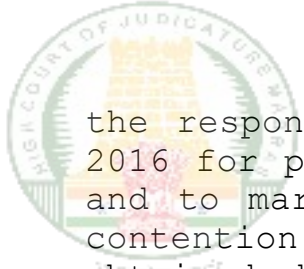
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 23.12.2016 made in I.A.No.533 of 2016 in O.S.No.104 of 1998 on the file of the District Munsif-cum-Judicial Magistrate, Bodinaickkanur and allow this Civil Revision Petition.

For Petitioner : Mr.K.Guhan
For Caveator/
Respondent : Mr.A.Arumugam for
M/s.Ajmal Associates (Caveator)

ORDER

This petition has been filed by the petitioner to set aside the fair and decreetal order, dated 23.12.2016 made in I.A.No.533 of 2016 in O.S.No.104 of 1998 passed by the District Munsif-cum-Judicial Magistrate, Bodinaickkanur.

2.The petitioner is the plaintiff. The respondent is the second defendant. The petitioner filed suit in O.S.No.104 of 1998 before the District Munsif-cum-Judicial Magistrate, Bodinayakanur against one Tmt.S.Mumthaz Begam for injunction restraining her from interfering with his peaceful possession and enjoyment of the suit property and not to evict the petitioner except due process of law. The said Mumthaz Begam filed written statement on 14.07.2000. After filing written statement, she died. After death of the defendant Mumthaz Begum, the respondent and one Sulthan were impleaded as defendants 2 and 3. Trial Commenced. The petitioner in evidence and closed his side. Evidence was let in on behalf of the respondent and other defendant and witness was cross-examined and it is posted for further evidence on behalf of



the respondent. At that time, the respondent filed I.A.No.533 of 2016 for permission to file 7 documents mentioned in the petition and to mark the same through D.W.1 in support of the respondent contention. According to the respondent, her uncle Umar Farook obtained documents 2 to 4 through Right To Information Act from District Registrar, Periyakulam. Document No.1 is the application under Right To Information Act. Documents 5 & 6 are issued by the Commercial Tax Officer in respect of one Tenant Abas Manthiri. Document No.7 is the power of attorney given to D.W.1 to give evidence. According to the respondent all these documents were obtained and found out only recently.

3.In the said I.A., the petitioner filed counter and opposed the said application. According to the petitioner, first document is the Xerox copy of the document and documents 2 to 4 are issued by District Registrar, Periyakulam and the same can be marked only through the concerned Officials. The documents 5 & 6 are not related to the issue involved in the suit. Document No.7 is fabricated for the purpose of the suit.

4.The learned Judge considering affidavit and counter affidavit and perused the materials on record allowed the application holding that the documents 1 to 4 are obtained under Right To Information Act and other documents which were in possession of the respondent and validity of the documents can be decided the time of judgment.

5.Against the said order of allowing the I.A.No.533 of 2016, the petitioner has come out with the present Civil Revision Petition.

6.The learned counsel appearing for the petitioner reiterated the averments made in the counter and grounds of revision and submitted that the learned Judge did not properly consider the materials on record and failed to consider the fact that the respondent has not given any reason for not filing these documents earlier. The learned Judge failed to consider that the first defendant has filed the written statement on 14.07.2000 and for 16 years they have not taken any steps for obtaining and filing the above documents. The learned Judge erred in holding that the suit is 18 years old and document can be filed and marked.

7.The learned counsel appearing for the caveator submitted that the respondent has given valid reason for not filing the document earlier. The respondent obtained document only recently and immediately she filed application to file the documents and marked the same. The learned Judge has considered all the materials on record properly and allowed the application by giving reasons.

