



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P(MD) (PD)Nos.642, 643 and 644 of 2017
and
C.M.P(MD)No.2894 of 2017

Amma Pillai Ammal

...Petitioner
In all CRPs

Vs.

S.Pathumuthu

...Respondent
In all CRPs

Prayer :These three Civil Revision Petitions are filed Under Article 227 of the Constitution of India to set aside the order dated 18.01.2017 made in I.A.Nos.55, 56 and 57 of 2016 in O.S.No.50 of 2011 on the file of the Principal District Judge, Madurai.

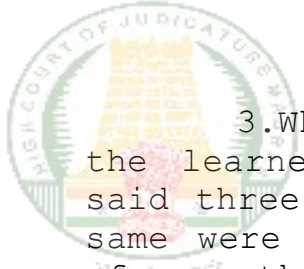
For Petitioner :: Mr.PT.S.Narendravasan
In all CRPs

For Respondents :: Mr.G.Prabhu Rajadurai
In all CRPs For Caveator

COMMON ORDER

These three revision petitions are directed against the order passed by the Principal District Judge, Madurai in I.A.Nos.55, 56 and 57 of 2016 in O.S.No.50 of 2011 order dated 18.01.2017, allowing the application to re-open and re-call and mark certain documents on behalf of the plaintiff.

2.The said order is now impugned before this Court by way of revision petitions on the ground that the suit for specific performance based on the alleged agreement dated 22.03.2010 was instituted as early as on April 2011 and examination of the witnesses was closed by 16.04.2015.



3. When the matter was posed for arguments, it is stated by the learned counsel for the revision petitioner that the above said three applications were filed before the Court below and the same were allowed without proper application of mind. The delay of more than one year in filing the application to re-open and re-call, after examining the witnesses, on the side of defendant is unexplained and therefore, the order allowing the plaintiff to re-open and re-call is un-sustainable. Further, the learned counsel appearing for the revision petitioner pointing out that certain documents which are not relevant to the facts and issues, are sought to be marked.

4. The learned counsel appearing for the respondent submitted that the documents, which are sought to be marked, are very relevant and the existence of those documents have come to the knowledge of the plaintiff only after cross examination of the defendant. Therefore, there is no undue delay in filing the application to re-open and re-call and also to mark the documents as listed in the petition.

5. In the suit, the specific case of the defendant is that he is not the absolute owner of the suit property and he is entitled only for 5 cents out of 7.399 cents. Further, the specific case of the defendant is that there was no agreement of sale between him and the plaintiff and he has not received any sale consideration to that effect. The plaintiff has now come to know about the fact that the defendant, from out of her part sale consideration, has purchased some property and also redeemed mortgage. To prove the said facts 8 documents are sought to be marked. Since the defendant has denied his right over the entire suit property, they want to mark a Will executed by one Veeranan, who is the uncle of the defendant.

6. The Trial Court, after considering the rival submissions of the party, felt that in the interest of justice, the trial has to be re-opened and PW2 has to be re-called for marking the documents as listed in the petition.

7. This Court finds no illegality or un-justification in allowing these petitions. However, by holding so, this Court is also conscious of the fact that certain documents, which are sought to be marked, may not be relevant or cannot be marked through PW2. It is always open to the revision petitioner herein, to raise her objections, if any, while marking the documents on the ground of admissibility or relevancy. If such objection is made, the Trial Court should refer the same and give its findings on its merits, while disposing the main suit. Further, it is also found that the suit is of the year 2012 and having entertaining

<https://hcservices.com/hcservices/> to re-open and re-call, the Court below should dispose of the suit as early as possible without undue delay.



8. With these directions, these three Civil Revision Petitions are disposed of. Consequently connected Miscellaneous Petition is closed. No Costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Learned Principal District Judge,
Principal District Court, Madurai.

+1cc to Mr.PT.S.Narendravasan, Advocate Sr.No.54743

+1cc to Mr.G.Prabhu Rajadurai, Advocate Sr.No.54843

mm/gk

vb/rsk/sar4/29.05.2017/3p/4c

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