

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (PD)No.2143 of 2016 &
C.M.P.No.11198 of 2016

Mr.M.Krishnan

.. Petitioner

Vs.

1. Mr.Abraham Samaredranath Sircar,
2. Mr.S.Venkataramani

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Order and Decreetal Order dated 10.02.2016 made in I.No. 91 of 2016 in O.S.No.1087 of 2009 on the file of the District Munsif Court, Katpadi.

For Petitioner : Mr.R.Thirumurugan

For Respondent : Mr.D.Rajagopal – R1

WEB COPY
ORDER

This revision has been filed against the Order of the trial Court made in I.A.No.91 of 2016 condoning the delay in filing the documents by the plaintiff.

2. The learned counsel for the revision petitioner would contend that the suit has been originally filed in the year 2004 before the District Munsif, Vellore. Thereafter, the suit has been transferred to the District Munsif, Katpadi and taken on file in O.S.No.1087 of 20015 and P.W.1 was examined on 28.10.2010 and subsequently, P.W.2 and P.W.3 were also examined. Thereafter, the suit has been dismissed for default on 13.09.2011. Again the suit was restored to file on 10.06.2015. Thereafter, the plaintiff has filed an application to file additional documents in I.A.No.91 of 2016. The trial Court has allowed that application as against which the present revision has been filed.

3. The learned counsel for the revision petitioner would contend that the suit is of the year 2004 and the delay in filing the documents has not been properly explained by the plaintiff and hence, submitted that allowing the application by the trial Court is not according to law.

4. Heard the learned counsel for the revision petitioner and the learned counsel for the first respondent.

5. The factual narration of the learned counsel for the revision petitioner is not in dispute. The suit itself has been filed for permanent injunction to establish the possession of the plaintiff. Admittedly, the suit was originally filed in the year 2004 before the District Munsif Court, Vellore and subsequently

transferred to the District Munsif, Katpadi, after the Court has been constituted at Katpadi. Thereafter, the suit has been posted for trial and at that stage, the plaintiff has filed a petition for filing additional documents.

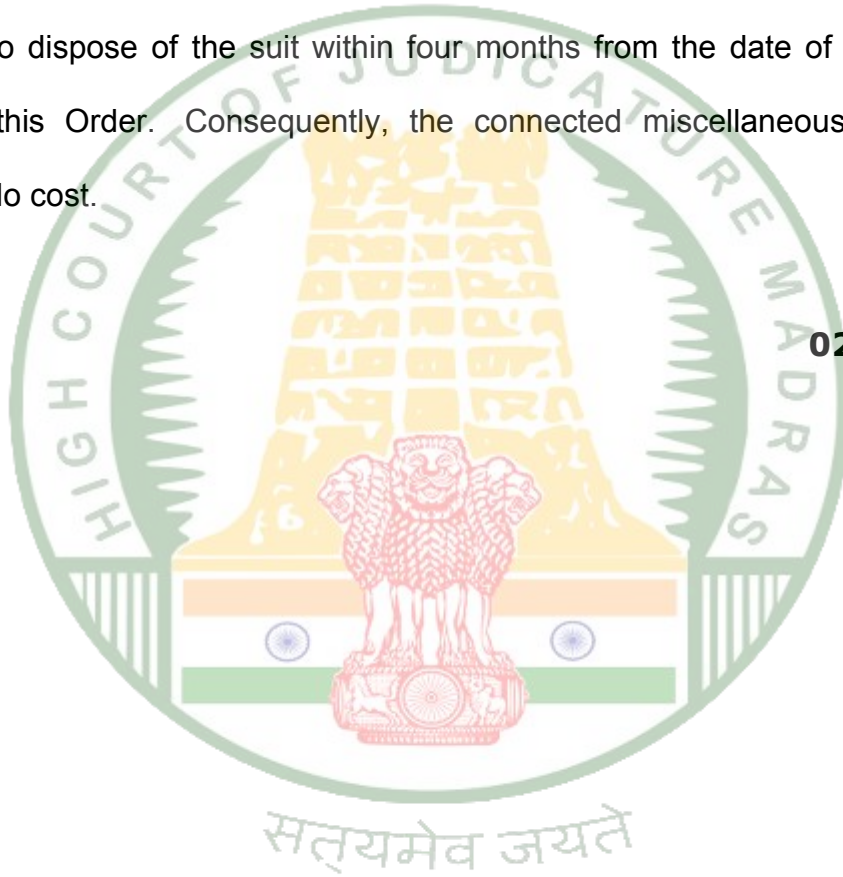
6. It is to be noted that after amendment in Code of Civil Procedure, production of the documents by the plaintiff can be done with the leave of the Court after presentation of the plaint. The plaintiff has rightly filed an application in I.A. No.91 of 2016 and sought leave of the Court to file additional documents. The trial Court, taking into consideration, the nature of the documents which were essential for adjudication in the suit, allowed the application. When the trial Court has rightly exercised its jurisdiction and granted leave to file the additional documents. To give quietus to the litigation, all the necessary document have to be adduced in evidence. Non filing of the documents at the earlier stage may be due to various reasons, due to illiteracy or ignorance or also non availability of the documents at the relevant point of time. Once, the documents are filed and if those document are relevant to decide the issue, the Court shall extend the benefit to the parties to adduce such documents for proper appreciation of the entire issue. It is not that the defendant has not been given any opportunity to defend or oppose those documents during the trial. The defendant can very well question those documents during the trial. The admissibility and reliability of the documents can be seen only at the time of trial. The defendant can very well make their objections to those documents in the cross examination. It is for the

trial Court to decide the admissibility and reliability of those documents. Hence, I do not find any infirmity in the Order of the trial Court in allowing the application and this revision lacks merits and the same is liable to be dismissed.

7. Accordingly, this civil revision is dismissed and the trial Court is directed to dispose of the suit within four months from the date of receipt of a copy of this Order. Consequently, the connected miscellaneous petition is closed. No cost.

vrc

02.11.2018



WEB COPY

N.SATHISH KUMAR, J.

vrc



CRP.(PD) No.2143 of 2016

WEB COPY

02.11.2018