



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.02.2018

CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD)No.1584 of 2011

and

MP(MD)No.1 of 2011 & C.M.P. (MD)No.458 of 2018

Bharathi ... Petitioner/Respondent/Plaintiff

Vs.

Govindaraj ... Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition is filed under Section 227 of Constitution of India, to set aside the order dated 30.06.2011 made in I.A.No.227 of 2011 in O.S.No.6 of 2007 on the file of District Munsif, Thanjavur.

For Petitioner : Mr.R.Devaraj

For Respondent : Mr.R.Jeyaraj

O R D E R

The Civil Revision Petition has been preferred against the order dated 30.06.2011 made in I.A.No.227 of 2011 in O.S.No.6 of 2007 on the file of the learned District Munsif, Thanjavur.

2.The brief facts of the case are as follows:

2.i)The Petitioner/Plaintiff had filed a suit in O.S.No.6 of 2007 before the learned District Munsif, Thanjavur for permanent injunction restraining the defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and for other reliefs.

2.ii) The Respondent/Defendant had filed a written statement denying the allegations stated in the plaint and he has stated that on 25.12.2006, the defendant had not attempted to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. Further, the Respondent/Defendant had filed a Additional Written Statement, in which, he raised various allegations against the Petitioner/Plaintiff.

<https://hcservices.ecourts.gov.in/hcservices/>

2.iii) It is stated in the additional written statement that the defendant has to pay only a sum of Rs.17,000/- (Rupees



Seventeen Thousand Only) and he was forced by the plaintiff's husband to execute a power of attorney and the power deed executed on 18.02.2004 is a fabricated document and the property is worth about Rs.10,00,000/-. The plaintiff suppressed the execution of the sale deed in favour of his wife on 20.11.2006.

2.iv) Further, in the additional written statement, the defendant has stated some facts regarding transaction between himself and the plaintiff and her husband. Further, in this regard a legal notice has been sent by the defendant to the plaintiff along with the additional written statement.

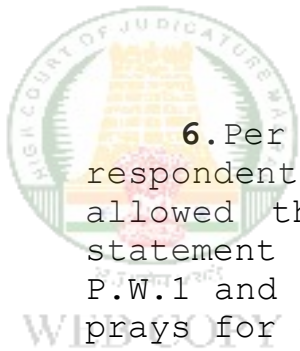
2.v) Pending the suit, the Respondent/Defendant had filed an Interlocutory Application in I.A.No.227 of 2011 before the learned District Munsif, Thanjavur stating that after filing the suit, the Petitioner/Plaintiff herein has filed a complaint against the defendant and after completion of investigation, Charge Sheet has been filed and the case is taken on file in C.C.No.133 of 2007 on the file of the learned Judicial Magistrate No.VI, Trichirappalli. Further, he stated that the petitioner/Plaintiff had prepared the documents as if the defendant has sold the suit property to the petitioner/plaintiff through her husband as power of attorney. It is further stated that there are several documents on his side to show that the suit property does not belong to the petitioner/Plaintiff herein and the sale deed and the power of attorney have been made fraudulently. Hence, the respondent/defendant sought permission to file additional documents before cross examining P.W.1.

2.vi) After perusal of oral and documentary evidence, the learned District Munsif, Thanjavur allowed the said application on payment of cost of Rs.1000/-(Rupees one thousand only).

3. Against the said order, the present Civil Revision Petition has been filed by the petitioner/plaintiff.

4. The learned Counsel appearing for the petitioner had raised various grounds stating that the Court below failed to see that the application filed under Section 151 C.P.C is not maintainable and further there is specific provision under Order 8 Rule 9 C.P.C which is amended by Act 22 of 2002 and there is specific provision under Order 8 Rule 1(3) C.P.C for receipt of documents.

5. The said application was filed seeking permission to file an additional written statement along with additional document before cross examining P.W.1. Therefore, the learned counsel for the petitioner submitted that the respondent/defendant has filed one application sought for two reliefs, for which he is not entitled to. According to the learned counsel for the petitioner, the court below has erroneously allowed application and he prays for setting aside the said order.



6. Per contra, the leaned counsel appearing for the respondent/defendant submitted that the court below has rightly allowed the application seeking to file an additional written statement along with additional document before cross examining P.W.1 and there is no error in the order of the trial court and he prays for dismissal of the Civil Revision Petition.

7. Heard both sides and perused the materials available on record.

8. Upon hearing the submissions made on either side and on perusing the oral and documentary evidence, it is seen that the additional documents were produced to prove the transactions happened between the petitioner/plaintiff and the respondent/defendant and they are very much essential to prove the case of the parties and the petitioner would not prejudice in receiving the additional written statement along with the document. Further, the trial Court allowed the petition on payment of costs and to that effect a memo was filed and the same was also recorded. In considered view of this Court, there is no error in the order of the trial court and the same does not warrant interference by this Court.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(w)

/True Copy/

Sub Assistant Registrar

To,

1. The District Munsif, Thanjavur.

2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

DSS/CM
AE/SV MMS/SAR4/19.06.2018/3P/4C

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