



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD) No.981 of 2013 (PD)
and
M.P. (MD) No.1 of 2013

Victor Johnson ... Petitioner
Vs.
Jayasundar ... Respondent

PRAYER: Petition filed under Section 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.38 of 2013 in O.S.No.83 of 2010 on the file of the District Munsif Court, Sathankulam, dated 12.02.2013.

For Petitioner : Mr.M.P.Senthil

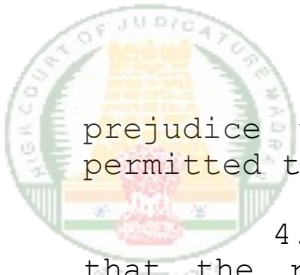
For Respondent : Mr.V.Natarajan

ORDER

The revision petitioner has filed a suit in O.S.No.83 of 2010 on the file of the District Munsif Court, Sathankulam for declaration to declare that the suit first and second schedule property belongs to the plaintiff and for consequential injunction. The suit is also for mandatory injunction to remove the underground pipeline that was laid in suit first schedule and for other reliefs pertaining to the suit third schedule.

2.During the pendency of the suit, the petitioner filed a petition in I.A.No.38 of 2013 to reopen the case and connected applications to examine further witness and to permit the petitioner to mark certain documents as additional evidence which are relevants came to the knowledge of the petitioner. In the affidavit filed in support of the petition, the petitioner has not stated the details about the documents which are sought to be marked by way of additional evidence. Hence, the trial Court dismissed the petition filed by the petitioner on the ground that the petitioner has not given the details about the documents that are to be marked as additional evidence. Aggrieved by the same, the petitioner filed this civil revision petition.

3.The learned counsel appearing for the petitioner relied upon the evidence of D.W.1 and pointed out that D.W.1 has admitted his presence in a photograph which was taken. According to the revision petitioner, the photograph shows the existence of window in the suit property. Since the defendant admitted the photograph and the existence of building which was pleaded by the revision petitioner, the learned counsel appearing for the petitioner pointed out that serious



prejudice would be caused to the petitioner in case, he is not permitted to mark the photograph.

4.The learned counsel appearing for the respondent submitted that the revision petitioner has not stated the details about the documents which he wanted to produce as additional documents and therefore, the order passed by the Court is perfectly valid.

5.The learned counsel appearing for the petitioner submitted that he has no objection in case the reopening of case only for the purpose of marking the photograph which according to the petitioner's counsel admitted by the defendant in the course of averments.

6.Having regard to the facts and circumstances of the case, this Court has also noticed from the evidence of D.W.1 that when a question was put to the witness about the presence of the D.W.1 in the photograph and about the physical features of the compound wall, D.W.1 has admitted his presence in the photograph which was taken long back.

7.Having regard to the facts and circumstances of the case, this Court is inclined to allow the petition to reopen the case for a limited purpose. Accordingly, this Civil Revision Petition is allowed and the order of the Lower Court in I.A.No.38 of 2013 in O.S.No.83 of 2010 is set aside. It is made clear that the case should be reopened only for the purpose of recalling D.W.1 and to mark the document namely, the photograph alone and the revision petitioner is not entitled to mark any other document or adduce any other evidence.

8.Having regard to the fact that the suit is pending for more than eight years, the learned District Munsif, Sathankulam, is directed to dispose of the suit as expeditiously as possible within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To

The District Munsif Court, Sathankulam.

+1cc to M/s.M.P.Senthil, Advocate, SR.No.63543
+1cc to M/s.V.Natarajan, Advocate, SR.No.63726.

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