

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.No.2505 of 2012

and

M.P.No.1 of 2012

Vallaeesam Pillai ... Petitioner/Defendant/Respondent

Vs.

1.Karutham Chettiar alias Subbarayan

... Respondent/Plaintiff/Petitioner

2.Radhakrishnan

3.Jothimani

4.Arul ... Respondents 3 to 5/Defendants 3-5/
Respondents 2-4

Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 02.08.2011 made in I.A.No.569 of 2007 in O.S.No.10 of 2005 on the file of the Principal District Munsif, Chidambaram.

For Petitioner : Mr.Srinath Sridevan

For Respondents : Mr.N.Balasubramanian (R1)
R2 to R4 - No appearance

O R D E R

Challenging the order passed in I.A.No.569 of 2007 in O.S.No.10 of 2003 on the file of the Principal District Munsif, Chidambaram, the 1st defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.10 of 2005 for dissolution of partnership and rendition of accounts.

3.The defendants filed their written statement and are contesting the suit.

4.When the suit was taken up for trial, the plaintiff filed an application in I.A.No.569 of 2007 seeking to mark the xerox copy of the Lease Deed dated 11.10.1991 said to have been allegedly entered into between P.W.2 and the defendants. Though the defendants raised objection for producing the xerox copy of the document, the trial Court allowed the application finding that if the xerox copy of the document is marked, no prejudice would be caused to the defendants. Challenging this

order, the 1st defendant has filed the above Civil Revision Petition.

5.It is settled position that a party to the suit, seeking to produce a secondary evidence of the document, has to satisfy the requirement of the provisions of Section 65 of the Indian Evidence Act. In the case on hand, the plaintiff has not satisfied the provisions of Section 65 of the Act. Merely because no prejudice would be caused to the defendants, that cannot be put in favour of the plaintiff for producing the xerox copy of the document. The trial Court ought not have allowed the application on the said ground. Unless a party seeking to produce secondary evidence satisfies the provisions of Section 65 of the Indian Evidence Act, the secondary evidence cannot be accepted.

6.In such view of the matter, the fair and decreetal order passed in I.A.No.569 of 2007 in O.S.No.10 of 2005 are liable to be set aside. Accordingly, the same are set aside. The application in I.A.No.569 of 2007 stands dismissed.

7.The learned counsel on either side submitted that since the suit is pending from the year 2005, the trial Court may be directed to dispose of the suit within a time frame.

8.In view of the submission made by the learned counsel on either side, I direct the Principal District Munsif, Chidambaram to dispose of the suit in O.S.No.10 of 2005, on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order.

9.With these observations, the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

va

To

The Principal District Munsif, Chidambaram

+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.98152

+1cc to Mr.N.Balasubramanian, Advocate, S.R.No.98487

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