

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISHKUMAR

C.R.P.No.4132 of 2013

and

M.P.Nos.1 of 2013 & 1 of 2014

Ezhil Nagar Welfare Association
Rep.by its President,
2/202, Manali Salai,
Ezhil Nagar 'A' Block,
Chennai - 600 118.

..Petitioner/ Respondent

Vs

L.R.Udayar

... Respondent/Appellant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 03.10.2013 passed in C.M.P.No.839 of 2013 in A.S.No.44 of 2013 by the III Additional City Civil Judge, Chennai.

For Petitioner : Mr.Chandrakumar

For Respondent : Mr.M.Murugesan

O R D E R

This Civil Revision Petition has been filed as against the order of the first appellate Court in allowing the application to receive additional documents.

2.The suit has been filed for permanent injunction by the plaintiff association against the erstwhile member. The suit has been decreed and pending appeal, the defendant filed an application for reception of the documents viz., Bye-laws, registered of the members, receipt of the registrar of society, notice to the Government officials, Minits book and members list. The first appellate Court has allowed the application for reception of documents as against which the present revision has been filed. An application to receive additional documents

has been filed on the ground that despite the documents, the trial Court failed to mark the documents since, the documents are very much necessary to contest the issue.

3.The learned Counsel for the respondent opposed the application for receiving documents. However, the first appellate Court has allowed the application on the ground that in order to advance the substantial justice, those documents are necessary. The suit itself, has been filed by the Welfare association on the ground that the respondent was removed thirty years back from the association and he was now acting against the interest of the society and hence, the additional documents have been received by the first appellate Court to advance the substantial justice.

4.It is seen that the documents sought to be filed are only bye-laws and other documents relating to the affairs of the society. Therefore, those documents have got relevance to the issues in the suit. Hence, I do not find any illegality or error in the order of the first appellate Court in allowing the application and in fact, the first appellate Court is granting an opportunity for the purpose to adduce evidence under Order 41 Rule 28 of the Civil Procedure Code by which the first appellate Court itself can take such additional evidence and decide the appeal on merits.

5.In the result, this Civil Revision Petition is allowed and the first appellate Court is directed to dispose of the appeal within four months from the date of receipt of the copy of this order. Consequently, connected miscellaneous petitions are closed.
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Sd/-

Assistant Registrar(CS VI)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

To

1. The III Additional Judge,
City Civil Court,
Chennai.

2.The Section Officer,
V.R.Section,
High Court, Madras - 104.

+lcc to Mr.M.Murugesan, Advocate, SR.No.26585

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Kak (08/05/2019)



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