

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.11.2019

PRONOUNCED ON : 14.11.2019

CORAM

THE HONOURABLE Mr. JUSTICE **R.PONGIAPPAN**

C.R.P.PD.No.4624 of 2013
and M.P.No.1 of 2013

R.Chandrasekaran ... Petitioner

Vs.

A.Manikandan ... Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and decretal order dated 19.07.2013 passed in I.A.No.349 of 2013 in O.S.No.97 of 2009, on the file of the II Additional Subordinate Court, Erode.

For Petitioner : Mr.T.Gowthaman

For Respondent : Mr.N.Manokaran

ORDER

Aggrieved over the order dated 19.07.2013 passed in I.A.No.349 of 2013 in O.S.No.97 of 2009, on the file of the II Additional Subordinate Court, Erode, the petitioner, who is the plaintiff in the above referred suit, filed this Civil Revision Petition.

2. Before the trial Court, the petitioner filed a suit in O.S.No.97 of 2009, as against the respondent for the relief of specific performance

directing the respondent to execute the sale deed as per the sale agreement dated 14.03.2005, after receiving the balance sale consideration or to refund the advance amount of Rs.1,60,000/- to the petitioner/plaintiff, which was paid at the time of entering into the contract of sale by the petitioner/plaintiff with future interest @ 15% per annum.

3. When the suit was posted for both sides arguments, the petitioner herein filed an application under Order 7 Rule 14(3) of C.P.C., in I.A.No.349 of 2013 and pleaded to receive the documents filed along with the application. The learned II Additional Subordinate Judge, Erode, after affording opportunity to the respondent and after receiving objections, by an order dated 19.07.2013, dismissed the application filed by the petitioner. Challenging the said order the petitioner is before this Court with this Civil Revision Petition.

4. Today when this petition is taken up for hearing, the learned counsel appearing for the petitioner made a submission that under Order 7 Rule 14(3) of C.P.C., the petitioner is entitled to file the documents at any time before pronouncing judgment. He further contend that even in the appeal stage, the petitioner is entitled to file the documents as additional evidence. But the trial Court without considering the averments made in the affidavit, wrongly concluded that those documents are not relevant to decide the case filed by the plaintiff and dismissed the application, which is

erroneous in law.

5. Per contra, resisting the claim made by the learned counsel appearing for the petitioner, the respondent's counsel made a submission that by way of filing this application, the petitioner has attempted to prolong the proceedings. The documents now requested to be received by the trial Court are no way relevant to the case of the petitioner. Even after knowing the fact that the documents are irrelevant to this case, he has attempted to file this application to receive those documents. The learned II Additional Subordinate Judge, Erode, by apprising the legal position under Order 7 Rule 14(3) of C.P.C., dismissed the application filed by the petitioner, which is purely within the purview of the law. According to him, the order passed by the learned II Additional Subordinate Judge, is found correct.

6. The submissions made by the learned counsel on either side are considered.

7. To decide the case, it is necessary to see the Order 7 Rule 14(3) of C.P.C., which reads as follows :-

"(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received

in evidence on his behalf at the hearing of the suit.”

As per the said provision, if any pleading is set out either by the plaintiff or by the defendant, the documents which relevant to the plaint has to be received at any time before completion of the trial proceedings.

8. Applying the said principle with the case in our hands, now the petitioner wants to receive the documents related to the family members of the respondent/defendant and the Advocate notice & reply notice, exchanged after filing the suit and also the copies of the judgment rendered by the various Magistrate Court in the case filed against the respondent/defendant. It is the settled proposition that the findings of the criminal Court is a separate proceedings and the same is no way relevant to the case filed by the petitioner especially for the relief of specific performance.

9. Now on going through the plaint and the written statement, neither the petitioner/plaintiff nor the respondent/defendant had nothing stated about those documents. So without any pleadings, now the petitioner wanted to mark the documents as exhibits. It is a general rule that any evidence let in without pleading cannot be looked into. By following the said principle, herein also the petitioner without any pleading, now wanted to mark those documents which are created after the institution of the suit.

10. More than that, in this aspect, the learned counsel appearing for the respondent made a submission that the petitioner filed the application belatedly, only to fill the lacuna found in his case. In this regard, he relied the judgment reported in **2017(4) CTC 321** in the case of **Gayathri Vs. Girish**, wherein, our Hon'ble Apex Court has held as follows :-

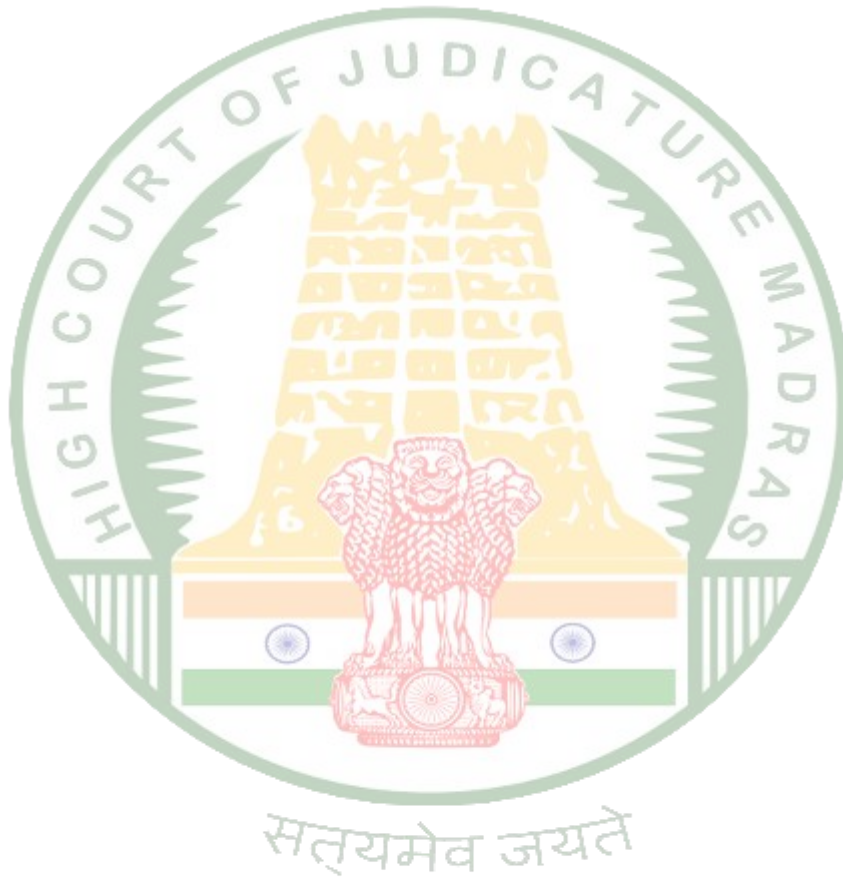
"12. In the case at hand, it can indubitably be stated that the defendant-petitioner has acted in a manner to cause colossal insult to justice and to the concept of speedy disposal of Civil litigation. We are constrained to say the virus of seeking adjournment has to be controlled....."

Applying the said principle in the case in our hands, the petitioner has also filed the application, when the suit was posted for hearing both sides arguments. It cannot be said that the petitioner has filed this application within a reasonable time. Further as already observed that since the documents are not relevant to the pleading set out by the petitioner as well as the respondent, I am of the considered opinion that dismissing the application filed by the petitioner is found correct and there is no material illegality in the order passed by the learned II Additional Subordinate Judge, Erode and the same is confirmed.

11. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No cost.

14.11.2019

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
rts



WEB COPY

R.PONGIAPPAN, J

rts

To

The II Additional Subordinate Court,
Erode.



ORDER IN
C.R.P.PD.No.4624 of 2013
and M.P.No.1 of 2013

WEB COPY

14.11.2019