

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.02.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.R.P.(PD).No.47 of 2016

and

C.M.P.No.250 of 2016

S.R.Asaithambi

... Petitioner

-vs-

1.M.Nanjundappa

2.Selvam

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.09.2015 in I.A.No.751 of 2015 in O.S.No.50 of 2008 on the file of the Learned District Munsif, Palacode.

For Petitioner : Mr.R.Selvakumar

For R1 : No Appearance

For R2 : Not ready in Notice

WEB ORDER COPY

The above Civil Revision Petition is filed challenging the order passed by the learned District Munsif, Palacode in I.A.No.751 of 2015 in O.S.No.50 of 2008, in and by which, the learned Judge allowed the

application filed by the Petitioner/first respondent herein to summon the Sub-registrar to come to the Court along with the documents.

2. The said application was opposed by the second respondent therein/petitioner herein stating that only with an intention to drag on the proceedings, since the year 2015, after the evidence had commenced, the first respondent has been taking time and filing one application after the other. The learned Subordinate Judge, however, proceeded to allow the application on payment of costs. Aggrieved by this order, the second respondent therein/Revision petitioner is before this Court.

3. Heard Mr.R.Selvakumar, learned counsel appearing on behalf of the Revision petitioner.

4. On a perusal of the papers, it is seen that when the evidence of PW1 was over, the first respondent had taken out two applications in I.A.Nos.157 of 2015 and 158 of 2015 to reopen and recall the evidence which were dismissed on 09.02.2015. Thereafter, the first respondent has filed I.A.No.356 of 2015 to reopen the plaintiff's side evidence, in order to summon the expert and call for certain

documents. This application was allowed on 10.06.2015 and the matter was adjourned for further proceedings to be initiated by the plaintiff. Subsequently, the matter was adjourned on 17.06.2015, thereafter, on 14.07.2015, 20.07.2015, 24.7.2015, 29.07.2015 and lastly on 31.07.2015. On 06.08.2015, when the case was posted, conditional order was passed and the plaintiff's side evidence was closed and the matter was posted for arguments of the respective parties on 08.08.2015. On the very same day, the first respondent had moved the impugned application stating that the power of attorney registered as Document No.416 of 2000, dated 11.12.2000 is a forged document and also there was a case of impersonation, for which, the parties, had to examine the Sub-Registrar and also mark the documents. The said application has been allowed by the learned Judge, though he observed that the first respondent has been protracting the proceedings.

5. It is further seen that the first respondent herein has been in the habit of protracting proceedings right from the year 2015. After the evidence of PW1, the matter was posted for arguments. Till 16.09.2015, the first respondent herein has not taken any defence that the power of attorney was forged. He ought to have taken

P.T.ASHA.J,

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steps immediately to issue subpoena to the Sub-Registrar. After dismissal of applications in I.A.No.157 and 158 of 2015 which were filed to reopen, recall the evidence, I.A.No.356 of 2015 was filed which was allowed. Despite the same, the first respondent herein has not taken steps to summon the concerned Authorities. In these circumstances, there is no merit in the order passed by the learned Judge in allowing the application.

6. In the result, this Civil Revision petition is allowed. The order of the learned District Munsif Judge, Palacode passed in I.A.No.751 of 2015 in O.S.No.50 of 2008 dated 11.09.2015 is set aside. No Costs. Consequently, connected miscellaneous petition is also closed.

सत्यमेव जयते

22.02.2019

Index: Yes/No
Internet: Yes/No
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To

The learned District Munsif,
Palacode.

C.R.P.(PD).No.47 of 2016

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