

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (PD)No.2734 of 2014

and

MP No.2 of 2014

Sennaiyiulla Virudhunagar Hindu
Nadars'

Abiviruthi Dharma Fund

Rep. By its Secretary M.Nithyanandam

... Petitioner

Vs

S.A. V.M.V. Elangovan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the learned XVIII Assistant City Civil Court, Judge, Chennai in I.A. No.2083 of 2014 in O.S. No.3175 of 2009, dated 17.03.2014.

For Petitioner : Mr.L.Muralikrishnan

For Respondent : Mr.R.C.Manoharan

ORDER

WEB COPY

The instant Civil Revision Petition has been filed challenging the order dated 17.03.2014 passed by the XVIII Assistant City Civil Court, Chennai in I.A. No.2083 of 2014 in O.S. No.3175 of 2009.

Brief facts leading to the filing of the instant Civil Revision Petition under Article 227 of the Constitution of India.

2. The petitioner is the defendant in the suit O.S. No.3157 of 2009 filed by the respondent seeking for the following reliefs :-

- a) To declare the General Body Meetings held on 20.02.2009 and 13.03.2009 and the resolutions passed on 20.02.2009 and 13.03.2009 as Null and void;
- b) And consequential injunction restraining the defendant in any manner from taking any action against the plaintiff or expelling the plaintiff from the Defendant's Dharma Fund Society for approaching this Hon'ble Court seeking legal relief in taking legal actions when there is violation of Bye Law and the provisions of the Societies Act 21 of 1960 by the defendant;
- c) For a Mandatory Injunction directing the defendant to conduct Election for the post of Patron as per the Provisions of Rule 12 of the Bye Law of the Defendant's Society and
- d) To pay the cost of this suit.

3. A written statement was filed by the petitioner in the said suit and after framing of issues by the Court, trial also commenced. At that stage when the respondent's / plaintiff's side witness was examined and documents were marked on his side and it was posted for cross examination of the respondent's side witness by the petitioner, the petitioner filed I.A. No.2083 of 2014 in O.S. No.3157 of 2009 under Section 151 CPC read with 94 (e) CPC, seeking for rejection and deletion of the documents marked as Exs. A8 and A9

through respondent's witness viz., PW1 in the suit O.S. No.3157 of 2009.

4. A counter affidavit was also filed by the respondent in I.A. No.2083 of 2014 filed by the petitioner. The Trial Court by its order, dated 17.03.2014 dismissed I.A. No.2083 of 2014. Aggrieved by the dismissal of I.A. No.2083 of 2014, the petitioner, who is the defendant in the suit has filed this revision under Article 227 of the Constitution of India.

5. Heard Mr.L.Murali Krishnan, learned counsel for the petitioner and Mr.R.C.Manoharan, learned counsel for the respondent.

Discussion :

6. The documents viz., Exs.A8 and A9 are plaint documents listed out as "Documents Nos.8 and 9" in the plaint. The documents are marked through the respondent's witness (PW1). After the marking of the documents, when the petitioner had to cross examine the respondent's witness, the petitioner has filed I.A. No.2083 of 2014 before the Trial Court in O.S. No.3175 of 2009 seeking for rejection and deletion of Exs. A8 to A9. The Trial Court has dismissed I.A.

No.2083 of 2014 on the ground that only after comparing the originals of Ex.A8 and A9, the said documents were marked.

7. The Trial Court in the impugned order has also made it clear that the objections raised by the petitioner as to the veracity of the documents can be tested by the petitioner, while cross examining the respondent's witness (PW1). But, even without cross examining the respondent's witness(PW1), the petitioner has approached this Court, aggrieved by the impugned order. This Court is in agreement with the view taken by the Trial Court in the impugned order which has rightly rejected the application viz., I.A. No.2083 of 2014 filed by the petitioner/defendant.

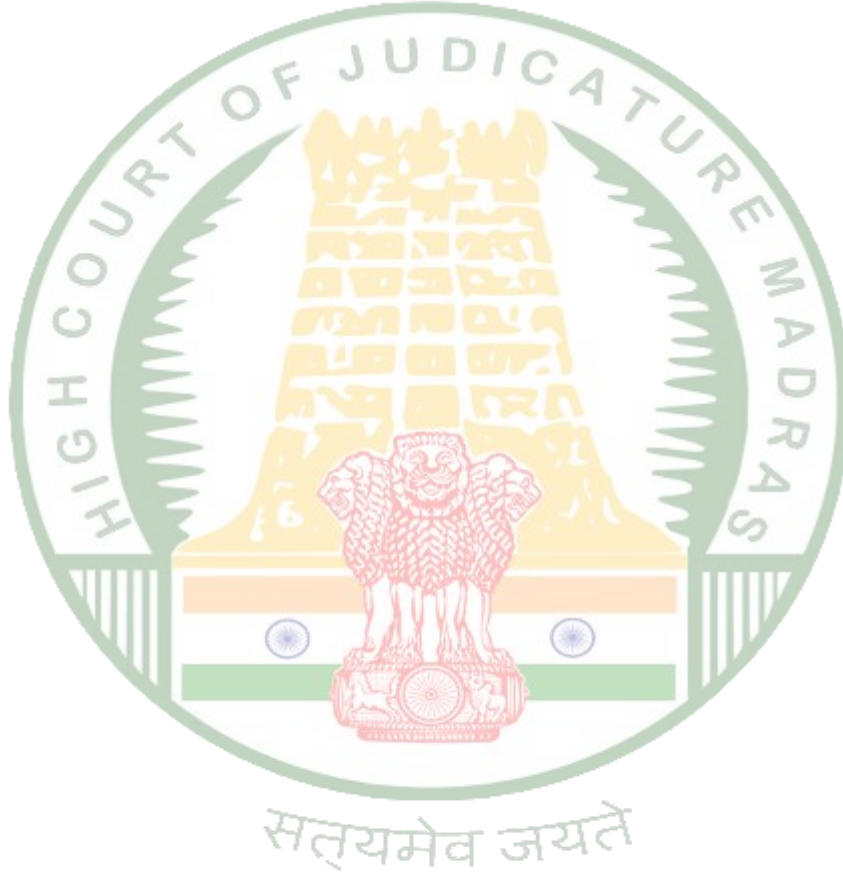
8. In the result, there is no merit in this revision petition. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

03.07.2019

Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
vsi2

To
The XVIII Assistant City Civil Court, Judge,
Chennai.



WEB COPY

ABDUL QUDDHOSE, J.

vsi2

CRP (PD)No.2734 of 2014

03.07.2019



WEB COPY