

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (PD) No.3465 of 2014

and

MP No.1 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.2082 of 2014 in O.S. No.4057 of 2009, dated 17.03.2014.

For Petitioner : Mr.L.Muralikrishnan

For Respondent : Mr.R.C.Manoharan

ORDER

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.2082 of 2014 in O.S. No.4057 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.4057 of 2009 filed by the respondent seeking for the following reliefs :-

a) Directing the defendant to render and furnish a true and proper accounts of the defendant's society to the plaintiff from April 2005 till March 2009.

b) Mandatory Injunction directing the defendant to register the True and Proper Accounts and returns from April 2005 till March 2009 with the appropriate authority under whom it is registered.

c) and Temporary Ad-Interim.

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.2082 of 2014 in O.S. No.4057 of 2009 under Section 151 CPC read with 94 (e) CPC, seeking for rejection and deletion of the documents marked as Exs. A3 to A17 through respondent's witness viz., PW1 in the suit O.S. No.4057 of 2009.

4. A counter affidavit was also filed by the respondent in I.A. No.2082 of 2014 filed by the petitioner. The Trial Court by its order, dated 17.03.2014 dismissed I.A. No.2082 of 2014. Aggrieved by the dismissal of I.A. No.2082 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.A3 to A17 are all plaint documents listed out as "Documents Nos.3 to 17" 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.2082 of 2014 before the Trial Court in O.S. No.4057 of 2009 seeking for rejection and deletion of Exs. A3 to A17. The Trial Court has dismissed I.A. No.2082 of 2014 on the ground that only after comparing the original

of Ex.A3, the said document is marked as document Ex.A3. As regards Exs. A4 to A8, A12, A17, the respondent (PW1), in his chief examination has deposed that those are the documents circulated by the petitioner which were received by him were produced by him before the Court. With regard to Exs. A9 to A11, A13, A14, A16, the Trial Court has observed that the said documents are copies of letters sent by the respondent to the petitioner and hence, the contention of the respondent that the respondent cannot have the original letter with him, since the same was sent to the petitioner, has to be accepted.

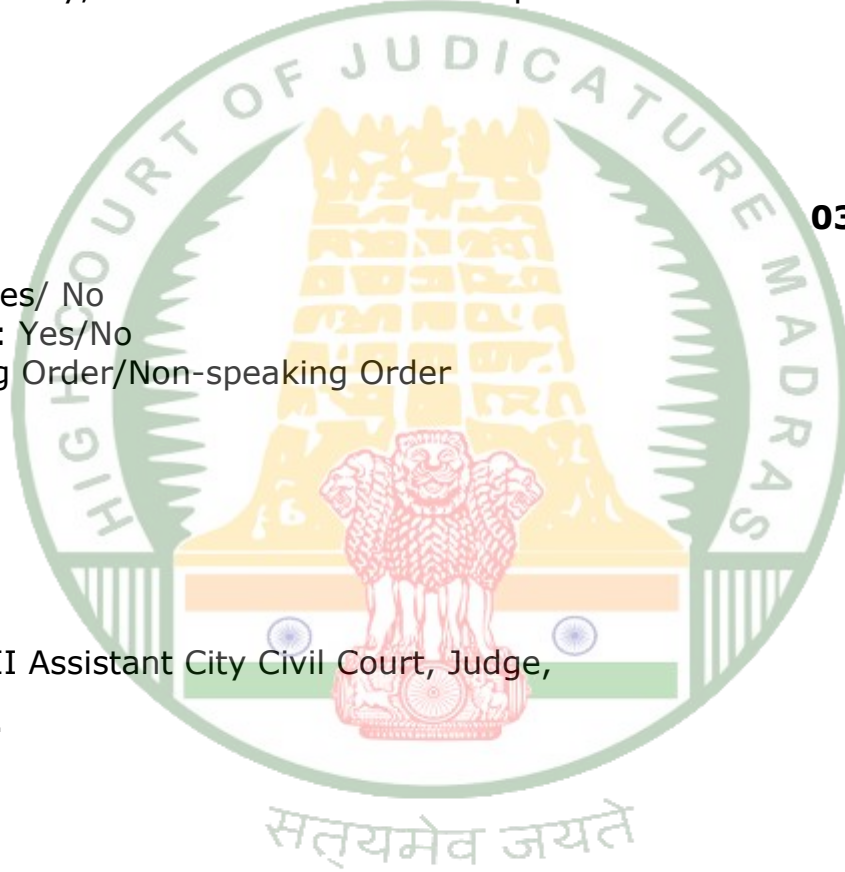
7. The Trial Court in the impugned order has also made it clear that the objections raised by the petitioner as to the veracity of the documents can be tested by the petitioner, while cross examining the respondent's witness (PW1). But, even without cross examining the respondent's witness(PW1), the 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.2082 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.

03.07.2019

Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
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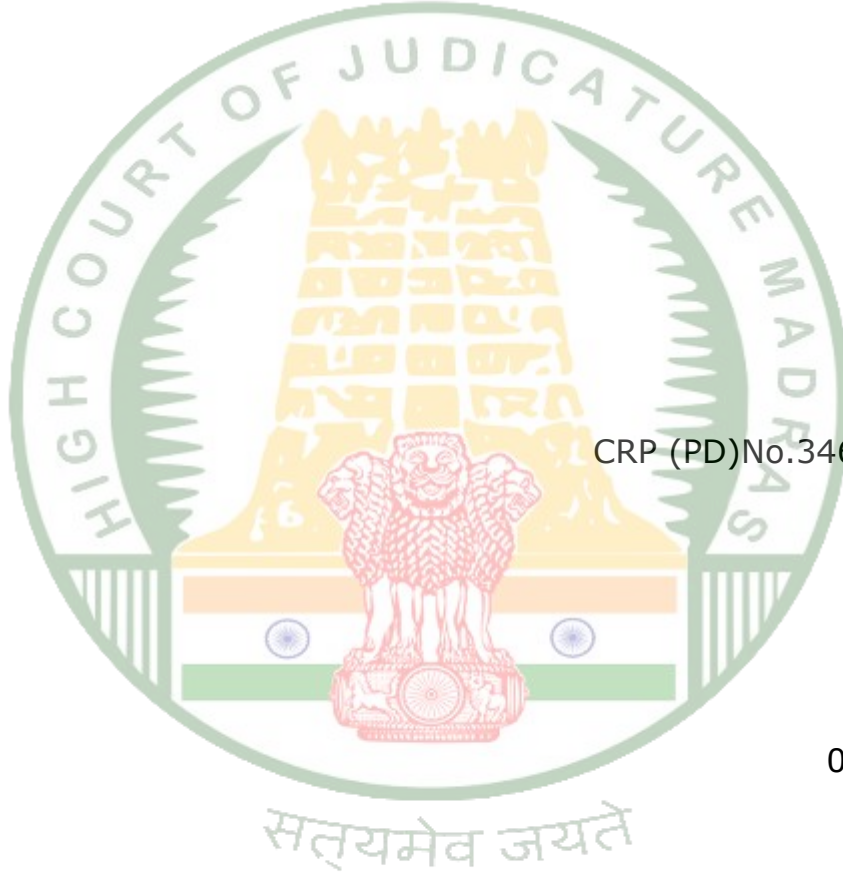
To
The XVIII Assistant City Civil Court, Judge,
Chennai.



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ABDUL QUDDHOSE, J.

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