

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

C.R.P.(PD) No.4409 of 2014 and
M.P.No.1 of 2014

1. Balu
2. Kuppammal

Petitioners

Vs

1. Lakshmi
2. Junior Engineer
Tamil Nadu Electricity Board
Pudupet
Panruti Taluk
3. Assistant Divisional Engineer
Tamil Nadu Electricity Board
Panruti
4. Superintending Engineer
Tamil Nadu Electricity Board
Cuddalore

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order dated 24.09.2014 passed in I.A.No.802 of 2014 in O.S.No.241 of 2003, on the file of District Munsif Court, Panruti.

For Petitioners : Mr.S.Sabarish for M/s.S.K.Rakhunathan

For Respondents : For R1 – No appearance
For R2 to R4 - Exparte

ORDER

The defendants 1 & 2 in OS No. 241 of 2003 on the file of District Munsif, Panruti, are the petitioners herein. Before the trial Court, the 1st respondent herein has filed a Suit as against the petitioners herein and other respondents in this application, prayed to pass a judgment and decree against the defendants 3 to 5, so as not to transfer the service connection No.166/Manapathur Village into the name of 1st & 2nd defendants. Further, they pleaded to pass an order of mandatory injunction, directing the defendants 3 to 5 to transfer the service connection 166 of Manapathur village into the name of the plaintiff and for the cost.

2. During the pendency of the suit, on 24.07.2014, first plaintiff in the Suit has filed a petition under Order 7 Rule 14 and Section 151 of Civil Procedure Code, in which he prayed to condone the delay in filing the documents enclosed along with the petition. The learned District Munsif, Panruti after affording an opportunity to the petitioners herein, by an order dated 24.09.2014, allowed the application in favour of the 1st respondent/1st plaintiff.

3. Aggrieved over the said findings of the learned District Munsif, Panruti, the petitioners are before this Court with the present Civil Revision Petition.

4. The learned counsel appearing for the petitioners would contend in the affidavit filed in support of the petition filed by the 1st respondent, she has not stated any specific reason for the delay caused in filing the document. The learned District Munsif, Panruti without considering the said aspect by holding that the genuineness of the document enclosed along with the petition has to be decided during the time of final disposal of the suit and thereby in order to give opportunity to prove the case of the plaintiff, has allowed the application.

5. Per contra, the learned counsel on behalf of the respondent would contend in the counter affidavit that the petitioners herein have specifically stated that the commissioner's report filed in OS No.1 of 1995 is nothing to do with the case. Further, the said commissioner's report is related to the property other than that of suit property. It is further contended that even after saying as above, the learned District Munsif, Panruti instead of dismissing the petition has allowed the same, which is against the principle of law.

6. Submission made by the learned counsel appearing for the petitioner and the contentions raised in the counter affidavit filed by the respondent are considered.

7. Now, on going through the provisions i.e Order 7 Rule 14, under which the petition filed by the first respondent, 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.

In fact, the said rule is substituted by Civil Procedure Code Amendment Act 2002. Further, as per the said provision, if any document or a copy thereof could not filed with the plaint, it may be received in evidence with the leave of the Court, which the Court shall grant in genuine cases. The rigour of the rule does not apply to the documents, which are sought to be adduced as corroborative evidence in support of the claim made in the plaint.

8. In this connection, it is necessary to verify the documents such as the petition filed by the 1st respondent before the trial court, the Report and plan submitted by the Advocate Commissioner's in OS No.1 of 1995 and the statement given by the 2nd defendant Kuppammal in OS No.1 of 1995 and a perusal thereof would go to show that the petitioners herein have made an allegation as the said documents are not related to the suit pertains to this Civil Revision petition. However, it is true that the

relevancy of the documents have to be decided only at the time of marking those documents. Further, it is to be noted that the petitioners are having liberty to rise their objections at the time of marking the documents. Moreover, it is pertinent to note that the application filed by the 1st respondent is only for the purpose of condoning the delay in filing the documents and not in otherwise. In general, if the document is produced in the belated stage, it could be received at any time and allowing the application cannot curtail the right of the opposite party, in rising their objections at the time of marking the said documents as exhibits.

9. Therefore, I am of the opinion that the impugned order passed by the District Munsif, Panruti is not having any material irregularity and accordingly this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

vrn

24.09.2019

To

The District Munsif Court, Panruti.

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R.PONGIAPPAN, J.,

vrn



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