

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.4526 of 2017

&

C.M.P.No.21325 of 2017

G.Ashokkumar

...Petitioner

Vs

1.Kanagavalli

2.Anandhan

3.Gnanasambandham

4.Muthukumar

... Respondents

Prayer:Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 16.11.2017 made in I.A.No.704 of 2017 in O.S.No.157 of 2014 on the file of the District Munsif Court, Thiruvarur.

For Petitioner : Mr.N.Manokaran
For Respondent 1, 2 & 4 : Mr.Thamizhavel
For Respondent 3 : No Appearance

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned District Munsif, Thiruvarur, dismissing the application in I.A.No.704 of 2017 in O.S.No.157 of 2014, which was the petition filed by the plaintiff to receive certain documents which has been listed in the petition. The petition has been moved under the proviso to Order VII Rule 14 (3) of the Code of Civil Procedure.

सत्यमेव जयते

2.In the affidavit which is filed in support of the said petition the revision petitioner has contended that by an oversight he has failed to file these documents which are vital to show that he had sufficient funds to put up construction and also

that he is the one who put up construction on the suit schedule property. For this limited purpose he had sought for leave to receive an additional documents. This assumes significance because the plaintiff in paragraph No.3 of his plaint would state as follows:

"The plaintiff is residing along with his wife and children in the first floor of the house constructed by him on the 1st item of the suit property. The first defendant, second defendant and the fourth defendants reside in the ground floor of the 1st item of the suit property. The second defendant is residing in the house constructed by the plaintiff that too out of the income derived from the plaintiff's business on the 3rd item of the suit property."

3.The suit is filed for a declaration that the settlement deed dated 30.10.2009, executed by 1st defendant in favour of the 4th defendant settling the suit 1st and 2nd item of the property would

not bind on the plaintiff and for an injunction.

4.The case of the plaintiff is that he had entered into an agreement with the defendants that he would be allotted 1st and 2nd item of the property and the 2nd defendant to be allotted 3rd item of the suit property. The 2nd defendant was put in possession of the house which was constructed by the plaintiff on the 3rd item of the suit property. However, contrary to the assurance the 1st defendant had executed the settlement deed in favour of the 4th defendant. The land was purchased in the name of their mother, the 1st defendant by their father. Considering the above conduct the revision petitioner/plaintiff has come forward with the suit. The defendants had resisted the suit, denying the contentions raised therein.

5.Just prior to the suit being posted for trial the impugned application came to be filed. This petition was also resisted by the defendants 1 to 4 on the ground that the prayer that is

sought for in the suit had no connection with the documents that were sought to be produced.

6.The learned District Munsif, Thiruvarur, by an order dated 16.11.2017, proceeded to dismiss the said application on the ground that the documents are irrelevant. Apart from that no other reasons have been given by the learned Judge. Challenging the same the revision petitioner/plaintiff is before this Court.

7.Heard the counsels on the either side. A mere perusal of the pleadings in the plaint particularly paragraph No.3 of the plaint and the reasons adduced for producing the documents would clearly establish a nexus between the documents.

8.The proof and relevancy of the documents is something to be considered at the time of its marking. However the Court has erred in not receiving the documents on the ground that it is

irrelevant. The relevancy is to be tested only at the time of marking.

Therefore the order of the learned District Munsif, Thiruvarur, is set aside and the Civil Revision Petition is allowed. The learned District Munsif, Thiruvarur shall receive the documents on the file. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

05.04.2019

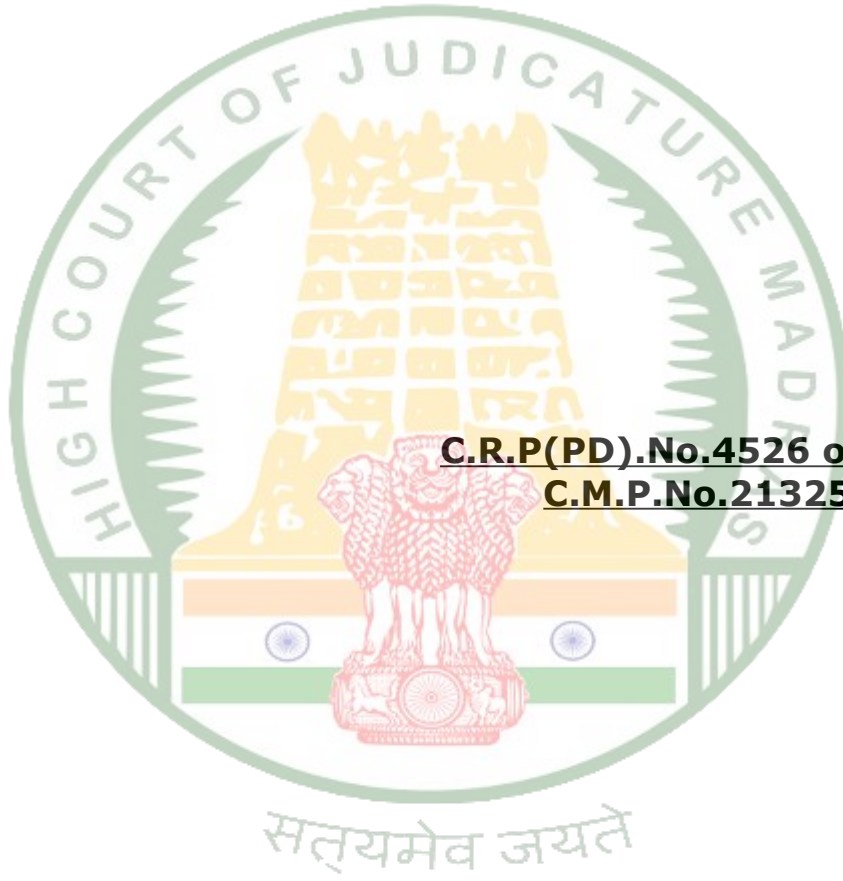
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Index : Yes/No
Speaking order/non-speaking order

To
The District Munsif, Thiruvarur.

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P.T.ASHA, J.,

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