



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2019

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THE HONOURABLE MS.JUSTICE P.T.ASHA

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C.R.P (MD) Nos.1756 and 1757 of 2011

and

M.P (MD) No.1 of 2011

in

CRP (MD) No.1756 of 2011

Gopalanathan

... Petitioner/Petitioner/Defendant
(in both CRPs)

Vs.

Ponnammal

... Respondent/Respondent/Plaintiffs
(in both CRPs)

COMMON PRAYER:- Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 10.08.2011 in I.A.Nos.494 and 495 of 2011 in O.S.No.115 of 2010 on the file of the Additional District Munsif, Karaikudi.

For Petitioner : Mr.J.Anandkumar
(in both CRPs)

For Respondent : Mr.D.Venkatesh
(in both CRPs)

COMMON ORDER

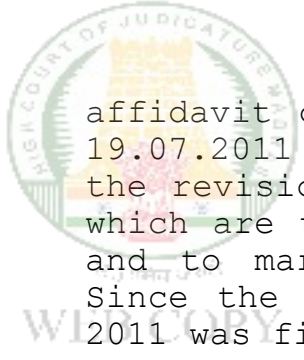
The above Civil Revision Petitions are filed challenging the common order passed by the learned Additional District Munsif, Karaikudi in I.A.Nos.494 and 495 of 2011 in O.S.No.115 of 2010. These applications have been filed for condoning the delay in filing the document and for recalling D.W 1 respectively.

2.The facts in brief which are necessary for disposing the civil revision petitions are as follows:-

The plaintiff who is the respondent herein filed a suit for declaration and injunction in respect of the suit property. The plaintiff has based his claim on the sale deed, dated 20.12.1999.

3.The defendant who is the revision petitioner before this Court had filed a written statement *inter alia* contending that they had purchased the the property from one 'KANK' Estate Private Limited and while mutating the revenue records an extent of 51 cents has been left out and it is this 51 cents that has been shown as the suit property.

4.The first witness of the defendant had filed his proof



affidavit on 05.07.2011 and his cross examination had commenced on 19.07.2011 and concluded on 22.07.2011. Thereafter, on 27.07.2011 the revision petitioner had come forward with the two applications, which are the subject matter of these revisions for recalling D.W.1 and to mark the document, which would go to prove his defence. Since the documents have been filed with the delay, I.A.No.495 of 2011 was filed for condoning the delay.

5.The respondent/plaintiff had filed her counter to the said application *inter alia* contending that the petition was nothing, but an attempt to fill up the lacuna and that they were trying to set right the error committed by them, during the chief examination. The respondent would also contend that the affidavits which have been filed in support of the said applications are totally bereft of details and therefore, the petitions had to be dismissed.

6.The learned Additional District Munsif by his common order proceeded to dismiss both the applications. The learned Additional District Munsif has been carried away by the defence that has been put forward and would contend that the document have been filed only to fill up the lacuna. Challenging the said common order, the revision petitioner is before this Court.

7.Heard the learned counsel appearing on either side and perused the papers.

8.It is seen that the defendant's side evidence is yet to be closed and further the application has been moved within five days of the conclusion of D.W.1's evidence and before that two witnesses on the side of the defendant, had been brought into box. That apart, the relief sought for in I.A.No.495 of 2011 is only to receive the documents and ultimately, the documents would be marked subject to its proof and relevancy. It is well open to the respondent/plaintiff to object to the marking of the documents during the trial, if the documents are not germane to the case on hand or if it does not conform to the parameters prescribed for marking of documents. The respondent has not stated in her counter as to the prejudice that would be caused to her, if the documents are received and the defendant's side witness, i.e., D.W.1 is recalled. The learned Additional District Munsif, Karaikudi, had failed to appreciate the fact that the applications had been moved immediately without any delay and therefore, the order dismissing the said applications suffered from perversity.

9.In the result, these Civil Revision Petitions are allowed and the common order dated 10.08.2011 passed in I.A.Nos.494 and 495 of 2011 on the file of the Additional District Munsif, Karaikudi, is set aside and I.A.Nos.494 and 495 of 2011 are allowed. Considering the fact that, the suit is of the year 2010, the learned Additional District Munsif, Karaikudi, is directed to dispose of the suit as



expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

cp

To

The Additional District Munsif,
Karaikudi.

- 1CC TO MR.D.VENKATESH, ADVOCATE, SR NO.96208
- +1CC TO MR.J.ANANDKUMAR, ADVOCATE, SR NO.95584

C.R.P(MD)Nos.1756 and 1757 of 2011

and

M.P(MD) No.1 of 2011

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