



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

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THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(PD) (MD) Nos.510 to 512 of 2019
and
C.M.P.(MD)No.2529 of 2019

Noorjahan :Petitioner in all C.R.Ps.

Vs.

Mariyam Beevi :Respondent in all C.R.Ps.

Prayer in C.R.P.(MD)No.510 of 2019:- Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the fair and ex-order dated 20.02.2019 made in I.A.No.99 of 2019 in O.S.No.468 of 2012 on the file of the District Munsif Court, Melur and to allow the same.

Prayer in C.R.P.(MD)No.511 of 2019:- Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the fair and ex-order dated 20.02.2019 made in I.A.No.100 of 2019 in O.S.No.468 of 2012 on the file of the District Munsif Court, Melur and to allow the same.

Prayer in C.R.P.(MD)No.512 of 2019:- Civil Revision Petition is filed, under Article 227 of the Constitution of India , to set aside the fair and ex-order dated 20.02.2019 made in I.A.No.101 of 2019 in O.S.No.468 of 2012 on the file of the District Munsif Court, Melur and to allow the same.

For Petitioners : Mr.K.Hemakarthiskeyan

COMMON ORDER

These civil revision petitions have been preferred by the petitioner against the order passed in I.A.Nos.99, 100 and 101 of 2019 in O.S.No.468 of 2012 on the file of the District Munsif Court, Melur. There is also a common order passed by the trial Court for all the three I.As.

2.I.A.No.99 of 2019 was filed by the petitioner who is the defendant in the suit. In I.A.No.99 of 2019, the petitioner contended that he took delivery of the suit property from the Court in R.C.O.P.No.13 of 2002 and the said delivery was also stated in his written statement. But the same was not stated in his proof



affidavit. Hence, the petitioner intended to file an additional proof affidavit to mention the same and also by marking those documents of delivery warrant, Amins warrant and return as well as the certificate copy of the petition and order in E.P.No.15 of 2005 in R.C.O.P.No.13 of 2002. Hence, the petition has been filed to reopen the case for the purpose of filling the additional Proof affidavit and marking all the documents.

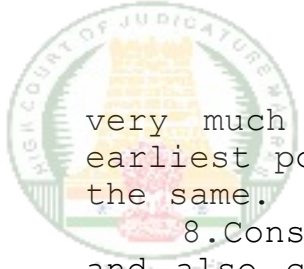
3.In I.A.No.100 of 2019, the petitioner/defendant contended that already the delivery of the suit property was taken by him. Though he has stated the same in the written statement, he has not stated in his proof affidavit. Hence, the petition has been filed for filling the additional proof affidavit and also marking the said documents.

4.In I.A.No.101 of 2019, the petitioner has filed the petition to mark the necessary documents by stating that he was not in a position to get the copies of the delivery warrant, Amins warrant and return. Now, he obtained the said copies of the documents. Hence, for the purpose of marking the documents, this I.A.No.101 of 2019 was filed.

5.In all the three petitions, the respondent has filed a counter affidavit, wherein he has contended that the evidence by both sides were completed and the case stands posted for argument. Only to fill up the lacunae and to drag on the proceedings, the petitioner has filed these petitions. Hence, the respondent sought for dismissal of these petitions.

6.The Trial Court, after observing the contentions raised by the petitioner regarding the reopening of the case, filling of proof affidavit and also marking all the documents, has found that the suit is filed for permanent injunction alone and there is no relief sought for by the plaintiff regarding the title over the property and the said suit was also proceeded and the evidence in both sides were closed on 20.09.2018 and sufficient opportunity was also given to this petitioner for examining the additional witnesses and these petitions have been filed very belatedly and these documents were also related to the period 2007. The trial Court, after considering the nature of the relief sought in the plaint, has observed that the purpose of filling the documents is also not very much relevant for arriving at a decision and accordingly, dismissed these petitions. Aggrieved against the same, these civil revision petitions have been filed.

7.On perusal of the records, it is observed that the petitioner was also examined as additional witness on 01.10.2018, 09.10.2016, 23.10.2018 and 15.11.2018 and in those days, in spite of the opportunity given to him, the petitioner has not filed any petition to file an additional affidavit or marking the documents and these documents were also related to the year 2007 and they are not very much essential for arriving at a decision in the suit. Hence, the Trial Court, after observing the petitions filed by the petitioner and the documents which are relevant to the period 2007, concluded that those documents are not very much necessary for arriving at a decision. If at all, the petitioner felt that these documents are



very much essential to prove his case, he would file at the earliest point of time and even in the affidavit, he has not stated the same.

8. Considering the relief sought for by the petitioner/defendant and also considering the fact that the documents are sought to be filed at a very belated stage, the orders passed by the trial Court does not require any interference. The Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

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To
The District Munsif, Melur.

+1CC to Mr.K.HEMAKARTHIKEYAN , Advocate SR.No. 54235.

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