



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2018

CORAM

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THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(NPD) (MD) No.2609 of 2018

and

C.M.P.(MD)No.11448 of 2018

1.Sugandhi

2.G.Santhanalakshmi

:Petitioners

Vs.

1.P.Rajkumar

2.N.Gopalakrishnan

3.N.Sowrirajan

4.N.Venkatramandadoss

:Respondents

PRAYER:- Civil Revision Petition is filed, under Section 227 of the Civil Procedure Code to allow the Civil Revision Petition setting aside that a portion of the order of Lower Court holding that husband of the first petitioner could not be permitted to adduce evidence about the documents filed under Order VIII Rule 1(3) C.P.C in I.A.No.551 of 2018 in O.S.No.257 of 2014, dated 11.10.2018 on the file of the Principal SubCourt, Pudukottai.

For Petitioners : Mr.N.Balakrishnan

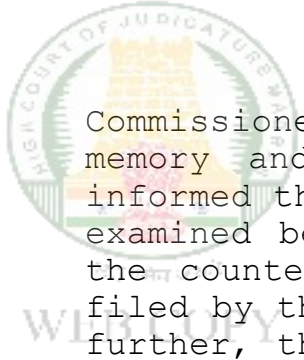
For R1 :Mr.V.Singan

O R D E R

This civil revision petition has been preferred against the fair and decreetal order passed in I.A.No.551 of 2018 in O.S.No.257 of 2014. I.A.No.551 of 2018 was preferred by the first defendant for receiving additional documents.

2.In the said application, the petitioner has contended that the suit was filed by the plaintiff for permanent injunction and the case was posted at the stage of examination of witnesses and there are certain documents which were obtained only recently and the said document could not be filed along with the written statements. Hence, the said documents have been received by the Court.

3.The plaintiff in the counter statement has contended that when the first defendant being the petitioner herein was ordered to be examined by the Court Commissioner and at that time, the petitioner herein who is the first defendant has informed the



Commissioner that she is not able to give evidence due to fading memory and failing health. Further, in the said report, she informed the Commissioner that the husband of the petitioner will be examined before the trial Court. The other contentions raised in the counter statement is that the documents are purported to be filed by the petitioners 3 to 6 which are not public documents and further, they have also the xerox copies. Further, in view of the statement given before the Commissioner, these documents cannot be received by the Court.

The respondent also contended that the documents are not related to the property that is involved in the suit and the other documents that is only receipt of the complaint preferred before the police and that, the said documents is also not related to the case.

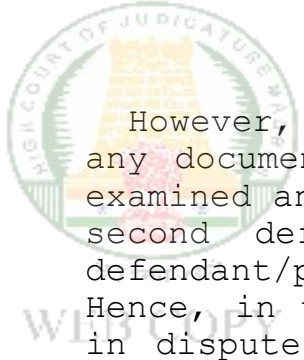
The trial Court, after observing the contentions raised by the petitioner for filing such petition to receive such a document under Order 8 Rule 3 and on perusal of the documents filed by the petitioner, has found that the petition is not signed by the first defendant and also the signature that was placed by the petitioner in the open Court. The respondent also found to be a different one. Hence, the petition filed by the petitioner itself is not found to be a genuine one sent by the first defendant. The trial Court has also contended that at the first instance, the Commissioner was appointed to examine the first defendant in I.A.No.500 of 2018 and the Commissioner also examined the petitioner/defendant, in which, she does not know about the case and only her husband appear before the Court and he will proceed with the case. The statement recorded by the Commissioner on examination of the petitioner/defendant had also filed before the Court and the same is also pursued.

The clear statement given by the petitioner to the Commissioner is that

Hence, the trial Court observed a possession of the first defendant through a report filed by the Commissioner and there is also variation in the signature of the petitioner in the petition as well as the signature placed before the Court. The petition itself is not found to be a genuine one. Hence, the trial Court has dismissed the said petition.

Heard the learned counsel on either side.

The petitioner contended that the suit in the part heard stage. Now the case stands that the plaintiff side evidence closed and posted for defendant side. By this time, the petitioner herein filed this petition. When the commission application was filed for examination, she said that she does not know about the facts and only her husband, if necessary, will proceed with the case. Hence, the document that are provided to be filed by the petitioner was not considered by the trial Court and in that view, the trial Court dismissed the said petition filed by the petitioner.



However, the petitioner contended that he has no objection to mark any documents in which, the husband of the first defendant can be examined and the documents can be marked only when it relates to the second defendant. But no documents mentioned by the first defendant/petitioner to be marked through the second defendant. Hence, in view of the findings that the first defendant who is not in dispute to depose before the Court and the said documents can also not be marked through the second defendant.

In view of the representation, the respondent argued that she has expressed serious objections against the suit in the year 2014. When the proceedings are conducted in the year 2010, there is a variation in the signature of the petitioner, where as, the trial Court has observed a difference of signature and believed all the documents especially, the very same petition has been filed. Hence, observation of the trial Court does not required any interference.

In view of the representation made by the respondent, the trial Court can be proceeded without any interception and in view of the finding, the first respondent has nothing to say about the case and she has not remembered anything about the said documents cannot be marked.

In view of the said observations, this civil revision petition is dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

TO
THE PRINCIPAL SUB JUDGE, PUDUKOTTAI

+1cc to Mr.V.Singan, Advocate, SR.No.48370
+1cc to Mr.N.BALAKRISHNAN, Advocate, SR.No.48612

C.R.P. (NPD) (MD) No.2609 of 2018
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