



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP(PD) (MD)Nos.1122 and 1123 of 2016

and

CMP(MD)No.5618 of 2016

Pethakkal

... Petitioner/Petitioner/Plaintiff
in both CRPs.

versus

Jeyapaul

... Respondent/1st Respondent/1st Respondent
in both CRPs.

Prayer in CRP(PD) (MD)No.1122 of 2016: Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 30.03.2016 made in I.A.No.786 of 2015 in O.S.No.235 of 2011 on the file of the District Munsif, Uthamapalayam.

Prayer in CRP(PD) (MD)No.1123 of 2016: Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 30.03.2016 made in I.A.No.787 of 2015 in O.S.No.235 of 2011 on the file of the District Munsif, Uthamapalayam.

For Petitioner
in both CRPs : Mr.K.Guhan

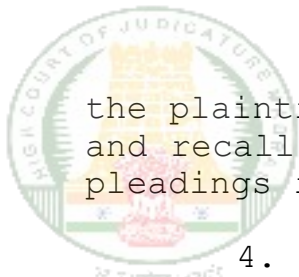
For Respondent
in both CRPs : Mr.N.S.Ponnaiah

COMMON ORDER

CRP(PD) (MD)No.1122 of 2016 has been filed against the order dated 30.03.2016 made in I.A.No.786 of 2015 in O.S.No.235 of 2011 on the file of the District Munsif, Uthamapalayam.

2. CRP(PD) (MD)No.1123 of 2016 has been filed against the order dated 30.03.2016 made in I.A.No.787 of 2015 in O.S.No.235 of 2011 on the file of the District Munsif, Uthamapalayam.

3. The revision petitioner herein is the plaintiff. She filed a suit in O.S.No.235 of 2011 before the District Munsif Court, Uthamapalayam, for partition and separate possession. After the completion of trial, the suit was posted for arguments on 26.11.2015, at that time, the plaintiff/revision petitioner filed the above interlocutory applications to re-open and recall the evidence of PW1 and to mark a document. However, the Court below, vide order dated 30.03.2016, dismissed the applications stating that



the plaintiff/petitioner has not shown sufficient reasons to re-open and recall the evidence of PW1 and not produced the document and no pleadings in the affidavit .

4. The learned counsel appearing for the revision petitioner submitted that the plaintiff/revision petitioner has admitted the fact that he has not mentioned anything about the document to be marked and under what purpose, the document is necessary to mark as evidence in the above suit. However, at the time of hearing, the plaintiff/revision petitioner has filed a sale deed dated 15.06.1981 stating that this is the document, which is very necessary to mark as evidence on her side in order to substantiate her claim made in the plaint. But, the Court below, without considering the same, dismissed the above applications. Therefore, he prayed for allowing these petitions.

5. The learned counsel appearing for the respondent has strongly opposed the submission made by the learned counsel appearing for the revision petitioner. The learned counsel submitted that in the affidavit, the plaintiff has not mentioned about the document which is going to be marked as evidence and has not shown any sufficient reason for marking the said document. In such being the case, due to the lack of pleadings in the affidavit and failure on the part of the plaintiff in mentioning the details of the document, which is sought to be marked, the Court below, after considering all the aspects, dismissed the application filed by the plaintiff/revision petitioner herein. Therefore, no interference is required.

6. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondent.

7. Admittedly, the revision petitioner herein filed the applications to re-open and re-call the evidence of P.W.1 and mark a document. It is admitted by the revision petitioner that he has not mentioned any details with regard to the document, which is going to be marked as evidence through PW1 and no pleadings are available in the affidavit with regard to the same. Further, the plaintiff/revision petitioner has not explained the purpose, for which, the document is sought to be marked. Considering the same, the Court below dismissed the applications. However, the learned counsel appearing for the revision petitioner produced a copy of the sale deed dated 15.06.1981. But, the said document was not produced before the Court below. Therefore, this Court does not find any infirmity in the order passed by the Court below. Therefore, the Civil Revision Petitions are liable to be dismissed.

8. Accordingly, both the Civil Revision Petitions are dismissed.



9. Considering the fact that the suit is of the year 2011, the Court below is directed to dispose of the suit within a period of four 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(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Munsif,
Uthamapalayam.

+1 CC to M/s.K. GUHAN, Advocate (SR-98047[F] dated 13/11/2019)

CRP (PD) (MD) Nos.1122 and 1123 of 2016
13.11.2019

smv (CO)

TR(08.01.2020) 3P 3C