

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.03.2020**

CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P.(PD) No.1269 of 2010

Viswanathan

... Petitioner

vs.

1. Nedunchezian

2. Bhanumathi

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the order dated 06.08.2009 passed by the District Munsif Court, Jayankondam in I.A.No.368 of 2009 in O.S.No.29 of 1998.

For Petitioner : Mr.K.Moorthy

ORDER

This Civil Revision Petition is filed challenging the order dated 06.08.2009 passed by the District Munsif Court, Jayankondam in I.A.No.368 of 2009 in O.S.No.29 of 1998.

2. The only ground raised by the learned counsel for the Petitioner is that, the Trial Court has permitted the applicability of the secondary evidence and held that, the same would be considered at the appropriate stage and that, accepting the documents is not going to

prejudice the rights of the parties. According to the learned counsel for the Petitioner, without giving proper notice, a document cannot be marked as a 'secondary evidence'.

3. The Trial Court has not rendered any finding as to whether the document in question is going to be accepted or not. The document can be looked into for collateral purpose to prove the character of possession. Merely because, the document is going to be marked, it does not mean that, the document is accepted. Genuineness of the document has to be independently established. Even though, such is not the reason stated in this case, if the party is going to produce a photocopy of the document, it can be objected to, at the time of tendering verbal evidence.

4. It is always open to the Petitioner to contend that, no such Will has been signed or executed and it cannot be looked even for collateral purpose. Declining to admit the document itself may cause serious prejudice to the rights of both parties. Sometimes, the document may be helpful to the parties to establish that, the document is a fabricated one. But, at the initial stage, the document cannot be shut out. Hence, this Court is of the view that, the order dated 06.08.2009 passed by the District Munsif Court, Jayankondam in I.A.No.368 of 2009 in O.S.No.29 of 1998, does not require any interference.

5. The Suit in question is pending for more than two decades and the present Civil Revision Petition is pending for a decade. It is very unfortunate that, the Suit is not disposed of so far. As there is no interim order operating against the order under challenge, this Court is not inclined to interfere with the same.

6. The parties are at liberty to make their objections, factually and legally, before the Trial Court. The Trial Court is expected to take up the Suit and proceed with the same on a day-to-day basis without adjourning the same beyond three working days at any point of time.

7. This Court also makes it clear that, in case, either the Plaintiff or the Defendant seeks adjournment before the Trial Court, costs of Rs.2,500/- (Rupees Two Thousand Five Hundred only) shall be imposed on the party seeking adjournment, for each and every hearing.

The Civil Revision Petition is dismissed with the above directions. No costs. Consequently, connected M.P.No.1 of 2010 is closed.

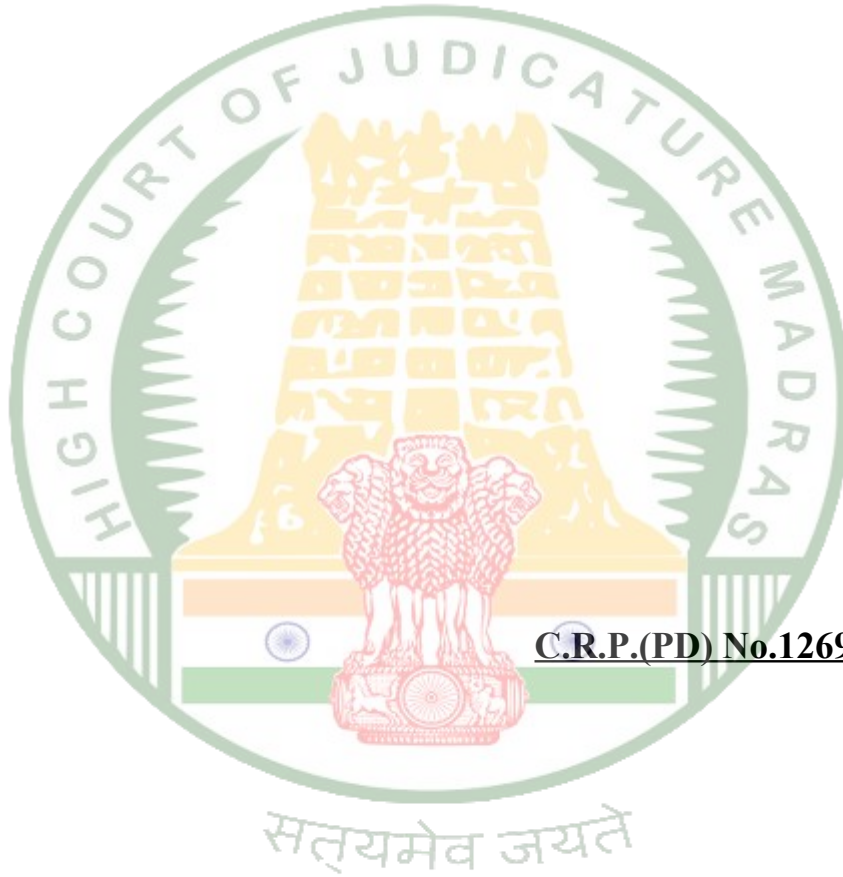
12.03.2020

Index : Yes/No
(aeb)

To: The District Munsif Court, Jayankondam.

S.VAIDYANATHAN,J.

(aeb)



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