

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(PD).2450 of 2015
and
MP.Nos.1, 2 and 1 of 2015

Vairakannu ... Petitioner

Vs.

1.Annbella Lourdes Meltilde Ignace
2. Fatima Anne Therese Ignace
3. Marie Josephine Francisca Iroudayamarie
Rep by their Power of Attorney
J.K.Kannabiran ... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 04.05.2015, made in I.A.No.362 of 2015 in O.S.No.20 of 2011 on the file of the learned III Additional District Judge, Puducherry and allow the above Civil Revision Petition.

For Petitioner : Mr.J.Kumaran

For Respondents : Mr.K.S.Karthick Raja

ORDER

This Civil Revision Petition has been filed by the petitioner/plaintiff against the dismissal of his application in I.A.No.362 of 2015 in O.S.No.20 of 2011 on the file of the III Additional District Judge, Puducherry dated 04.06.2015.

2. The petitioner herein had filed an application in I.A.No.362 of 2015 in O.S.No.20 of 2011 on the file of the III Additional District Judge, Puducherry under Order 7 Rule 14(3) r/w Section 151 of CPC seeking leave of the court for filing 11 documents. The learned trial Court Judge by the order dated 04.06.2015 had dismissed the said application. Feeling aggrieved, the petitioner/plaintiff has filed the present civil revision petition.

3. Heard Mr.J,Kumaran, the learned counsel for the petitioner and Mr.K.S.Karthik Raja, the learned counsel for the respondent.

4. The learned counsel for the petitioner/plaintiff has submitted that the petitioner has filed a suit in O.S.No.20 of 2011 on the file of the III Additional District Judge, Puducherry for the relief of specific

performance of the sale agreements dated 24.04.2009 and 29.07.2009. He further submitted that the respondents/defendants entered into the said sale agreements with the petitioner/plaintiff in respect of the suit property through their power agent namely J.A.Kannabiran. He further submitted that the respondents/defendants gave a general power of attorney dated 22.04.2009 in favour of the said J.A.Kannabiran and only in pursuance of the said power of attorney, the said J.A.Kannabiran entered in to the said sale agreements with the petitioner/plaintiff. He further submitted that the respondents/defendants after receipt of summons in the suit, entered appearance through another power agent and filed written statement. He further submitted that in the said written statement, the respondents/defendants have not disputed the execution of the said power of attorney in favour of J.A.Kannabiran, but, they took a plea that the power agent has gone against their interest. Further, they took a plea that the power agent has colluded with the plaintiff with an intention to defeat their right in the suit property. He further submitted that along with the plaint the petitioner had filed photo copy of the said power of attorney and hence during trial, the petitioner has filed registration copy of the said power of attorney and other documents

along with a petition in I.A.No.362 of 2015 under Order 7 Rule 14(3) r/w Section 151 of CPC seeking leave of the court to file all the aforesaid documents, but, the trial court had erroneously dismissed the said application. He further submitted that since the said documents are misplaced, they could not be filed along with the plaint. He further submitted that since the aforesaid documents are vital documents to prove the case of the petitioner, an opportunity may be given to the petitioner to produce the said documents before the trial Court and therefore, he prayed to allow this Civil Revision Petition and set aside the order passed by the trial Court and allow I.A.No.362 of 2015.

5. Per contra, the learned counsel for the respondents/defendants has submitted that the suit was filed in the year 2011 and the respondents/defendants had filed their written statement in the year 2012 itself and when the suit was at part heard stage, the petitioner/plaintiff had filed an application in I.A.No.362 of 2015 i.e., after nearly 4 years, seeking leave of the Court for filing the documents mentioned in the said petition. He further submitted that along with the said petition, the petitioner has not produced the said documents also and taking into

consideration of the aforesaid facts, the trial Court had rightly dismissed the said petition and with the said order, this Court need not interfere. Therefore, he prayed to dismiss this Civil Revision Petition.

6. A perusal of the written statement filed by the respondents/defendants shows that they have not denied the execution of the general power of attorney in favour of one J.A.Kannabiran. On the contrary, they have pleaded that the said J.A.Kannabiran had exceeded his limit and they have taken a stand that the said J.A.Kannabiran does not have any right to enter into the sale agreements with the plaintiff. Further, they have stated that they have not given any consent to the said power agent to sell the property. In such a case, if a registration copy of the said power of attorney is produced before the Court, that would not cause any prejudice to the respondents.

7. It is also to be pointed out that already the petitioner has filed a photo copy of the said power of attorney along with the plaint. Further, since both the parties are relying upon the said power of attorney, if the said document is produced before the Court, it will help the Court to take

proper decision in the suit.

8. In respect of the other documents are concerned, the learned counsel for the respondents/defendants would submit that they are not relevant for deciding the issues in the main suit. Admittedly, I.A.No.362 of 2015 has been filed under Order 7 Rule 14(3) of CPC, seeking leave of the Court for filing the documents. While deciding the said application, the Court has to see whether the petitioner has stated sufficient reason for not filing the said documents along with the plaint. The relevancy, admissibility, genuineness etc., have to be decided either at the time of marking the said documents or at the time of disposing of the main suit. At this stage, the said question need not be considered.

9. It is the case of the petitioner that the said documents were misplaced in the office and only recently, he traced out the said documents. Though the said reason appears to be an acceptable one, along with the said application, the petitioner has not produced the said documents. Therefore, this Court is of the view that the petitioner shall be put on terms.

10. In the result, this Civil Revision Petition will be allowed on payment of cost of Rs.1,000/- to the respondents/defendants either directly or through their counsel who appeared before the trial Court within a period of three weeks from the date of receipt of a copy of this order failing which, this Civil Revision Petition shall stand dismissed automatically without further reference to this Court. If the petitioner complies with the aforesaid condition within the aforesaid period, the trial Court is directed to give one week to the petitioner to produce the aforesaid documents before the Court and thereafter, proceed with the case in accordance with law. Consequently, connected miscellaneous petitions are closed.

11.11.2020

Vv/dna

Index :Yes/No

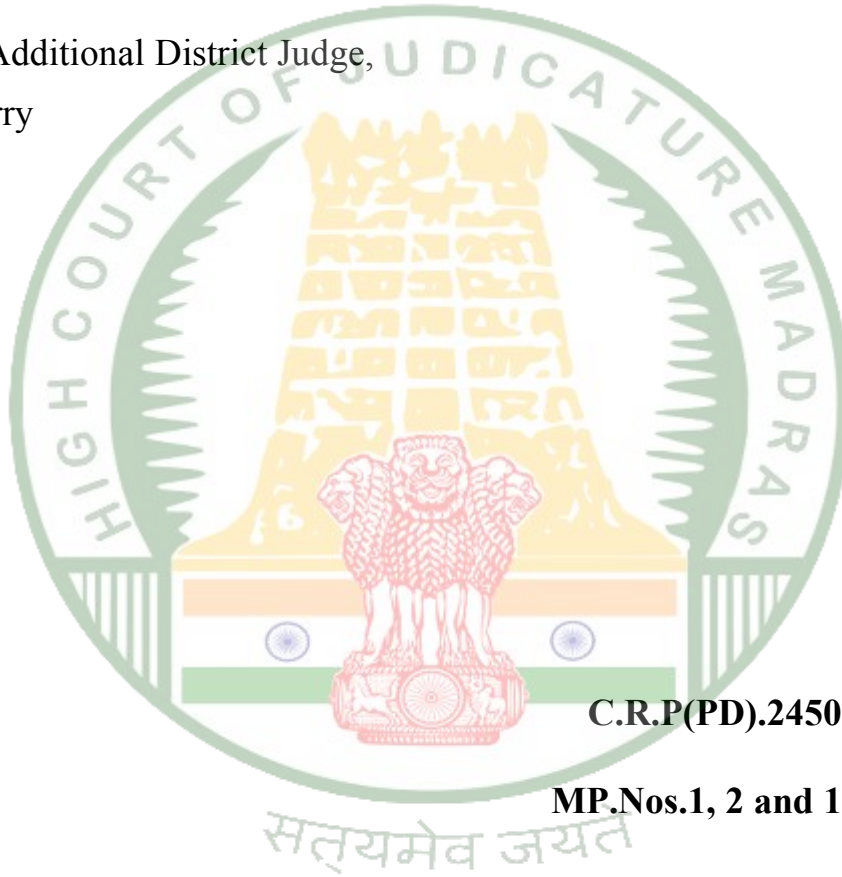
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P.RAJAMANICKAM.J.,

Vv/dna

To
The III Additional District Judge,
Puducherry



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and
MP.Nos.1, 2 and 1 of 2015**

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