

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM: THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

CRP.(PD) No.2237 of 2018
and CMP.No.14053 of 2018

A.Balakrishnan ... Petitioner/2nd Respondent/2nd defendant

Vs.

Krishnaveni (Deceased)

1.P.Purushothaman

2.P.Thiruvengadam

3.P.Narayanasamy

.. Respondents/Petitioners, 1st respondent/
Plaintiffs, 1st defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 02.07.2018 made in I.A.No.45 of 2018 in O.S.No.1962 of 2015 on the file of the XVIII Addl. Judge, City Civil Court at Chennai.

For Petitioner : Mr.N.Senthil Kumar
For Respondents : Mr.P.Vasanth

ORDER

The second defendant in O.S.No.1962 of 2015, feeling aggrieved by the order of the trial Court condoning the delay in filing certain documents made in I.A.No.45/2018, has come up with this revision.

2. The suit in O.S.No.1962/2015 is one for partition. The plaintiffs trace their title through a sale deed dated 16.09.1986. During trial, the plaintiffs have come up with an application in I.A.No.45/2018, seeking condonation of delay in producing the certificate dated 22.06.2004 said to have been issued by the Virugambakkam Police Station regarding the loss of the sale deed dated 16.09.1986. It appears that a complaint was lodged by the plaintiffs on 10.06.2004 before the Inspector of Police, Crime Branch V2 Virugambakkam Police Station, and that a non-traceable certificate has been issued by the police on 22.06.2004. It is this certificate which the plaintiffs want to produce in the suit as additional document and hence they filed an application in I.A.No.45/2018 in O.S.No.1962/2015, to condone the delay in filing the document.

3. This claim was resisted by the petitioner, who is the second defendant in the suit, contending that there is no reference to the lost of the sale deed or the certificate issued by the police, in the plaint and therefore, the same cannot be received at this stage.

4. The trial Court concluded that the document could be received subject to proof and relevancy, and allowed the application

5. I have heard Mr.N.Senthil Kumar, learned counsel appearing for the petitioner and Mr.P.Vasanth, learned counsel appearing for the respondents.

6. Mr.N.Senthil Kumar, learned counsel appearing for the petitioner would submit that in the absence of any reference either to the loss of the sale deed or non-traceable certificate issued by the police, in the plaint, the trial Court was not right in allowing the receipt of the said document.

7. Contending contra, Mr.P.Vasanth, learned counsel for the

respondents would submit, all that the Court has done is to condone the delay in filing the document and the document has been received subject to the proof and relevancy. It is always open to the petitioner to object to the marking of the document or cross-examine the witness through whom the document is sought to be marked on the basis of the absence of relevant allegations in the plaint. Therefore, according to them, there is no prejudice caused to the petitioner because of the receipt of the document as such.

8. I am inclined to agree with the learned counsel for the respondents. The application that is disposed of is one under Order VII Rule 14(3), seeking permission to produce the documents in the suit, which was not produced along with the plaint. The trial Court has only allowed the application, subject to the proof and relevancy. It is open to the petitioner to object to the marking of the document or to cross-examine the witnesses regarding the truth or genuineness of the document. Therefore, I see no prejudice to the cause of the petitioner. Therefore, the trial Court is right in allowing the said I.A to receive the document .

9. In view of the same, I do not see any reason that warrants

interference with the order of the trial Court in this Civil Revision Petition. I do not find any material irregularity or illegality in the approach adopted by the trial Court. Hence, this revision fails and is dismissed. However, it is made clear that it is open to the petitioner to challenge the documents on all grounds that is available to him. No cost. Consequently, connected miscellaneous petition is closed.

28.07.2020

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Index : Yes / No

Internet : Yes / No

Speaking Order / Non-speaking Order

To:

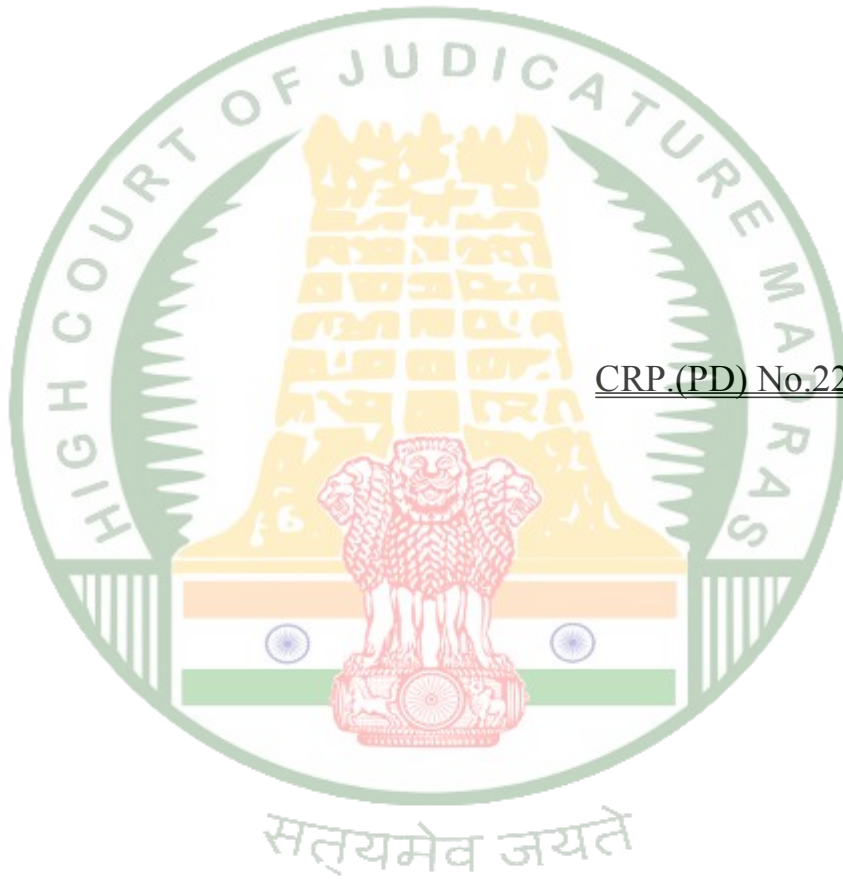
1.The XVIII Additional Judge
XVII Additional City Civil Court, Chennai.

2.The Section Officer
VR Section,
High Court, Madras.

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R.SUBRAMANIAN.J.,

ds



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