

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P.(PD) No.3042 of 2016
and C.M.P.No.15371 of 2016

1. Sakthivelu
2. Annakili
3. Easwaran
4. Raja

... Petitioners/Petitioners/Petitioners/Defendants 1 to 4

-VS-

1. Muthusamy
2. Vinu

... Respondents/Respondents/Respondents/Plaintiffs

PRAYER: Petition is filed under Article 227 of the Constitution of India to set aside the Order passed in Receive Register No.353 of 2016 in unnumbered I.A.No. Of 2016 in O.S.No.405 of 2013 dated 18.02.2016 on the file of the learned District Munsif Court, Namakkal by allowing revision petition.

For Petitioners : Mr.N.Umapathi
For Respondents : Mr.N.Manokaran

ORDER

The plaintiffs had filed a suit in O.S.No.405 of 2013 on the file of the learned District Munsif Court, Namakkal, seeking for declaration of the suit schedule property and for demolition of a house at the property, in which, the defendants sought to file an application for rejection of documents filed by the plaintiffs in Ex.P2 and Ex.P4 marked through P.W.1. Though the said unnumbered application was received in Receive Register No.353 of 2016, subsequently, it was returned as not maintainable and aggrieved by the same, the petitioners / defendants are before this Court.

2. Learned counsel for the petitioners / defendants has submitted that unless or otherwise the documents are counter signed by the concerned Government Official, it cannot be exhibited and those documents can merely be construed to be inadmissible in evidence. He has further submitted that the application that was returned on 15.02.2016, holding that the documents were marked with objection, was again re-presented, in which the Trial Court observed that no valid reason has been given to entertain the application and therefore, the application was dismissed as not maintainable.

3. It is pertinent to state that mere marking of documents will not prejudice the rights of parties before the Civil Court, as the veracity, genuineness and relevancy of the documents need to be gone into by the Trial Court during trial so as to arrive at a definite conclusion. It is needless to mention that as per the document produced by the petitioner in the typeset of paper dated 16.03.2020, referring to Citizens Charter 2007, it is open to the Court to either accept or reject the documents produced before it after analyzing the evidence both verbally and orally and merely unnumbered application has been rejected and which is the subject matter of the CRP would not enable this Court to come to the conclusion that there is an order of the Court and the same has been put against the petitioners herein. The Court below can also go into the veracity, validity, applicability of this so-called Citizens Charter 2007, as only extract has been produced.

4. The Apex Court in the case of **Bipin Shantilal Panchal vs. State of Gujarat and another**, reported in **(2001) 3 SCC 1** was pleased to hold as under:

“14. When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence taking stage regarding the admissibility of any material or item of oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the judge or magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course. (However, we make it clear that if the objection relates to deficiency of stamp duty of a document the court has to decide the objection before proceeding further. For all other objections the procedure suggested above can be followed.).

15. The above procedure, if followed, will have two advantages. First is that the time in the trial court, during evidence taking stage, would not be wasted on account of raising such objections and the court can continue to examine the witnesses. The witnesses need not wait for long hours, if not days. Second is that the superior court, when the same objection is re-canvassed and reconsidered in appeal or revision against the final judgment of the trial court, can determine the correctness of the view taken by the trial court regarding that objection, without bothering to remit the case to the trial court again for fresh disposal. We may also point out that this measure would not cause any prejudice to the parties to the litigation and would not add to their misery or expenses.”

5. The Court must adopt certain procedures as contemplated under CPC and in case objections are raised with regard to the admissibility of any evidence, the Trial Court must take note of the same. In the case on hand, the order passed on 18.02.2016 is only for the purpose of deciding the fate of unnumbered application and the veracity of the documents will be decided after the evidence is over and final arguments are heard. Hence, I am of the view that the Trial Court has not committed any error in returning the application.

6. With the above observation, the Civil Revision Petition is disposed of and the parties are entitled to put forward their submissions with regard to the admissibility of the evidence both on oral and documentary and the veracity of the documents shall be decided

S.VAIDYANATHAN,J.
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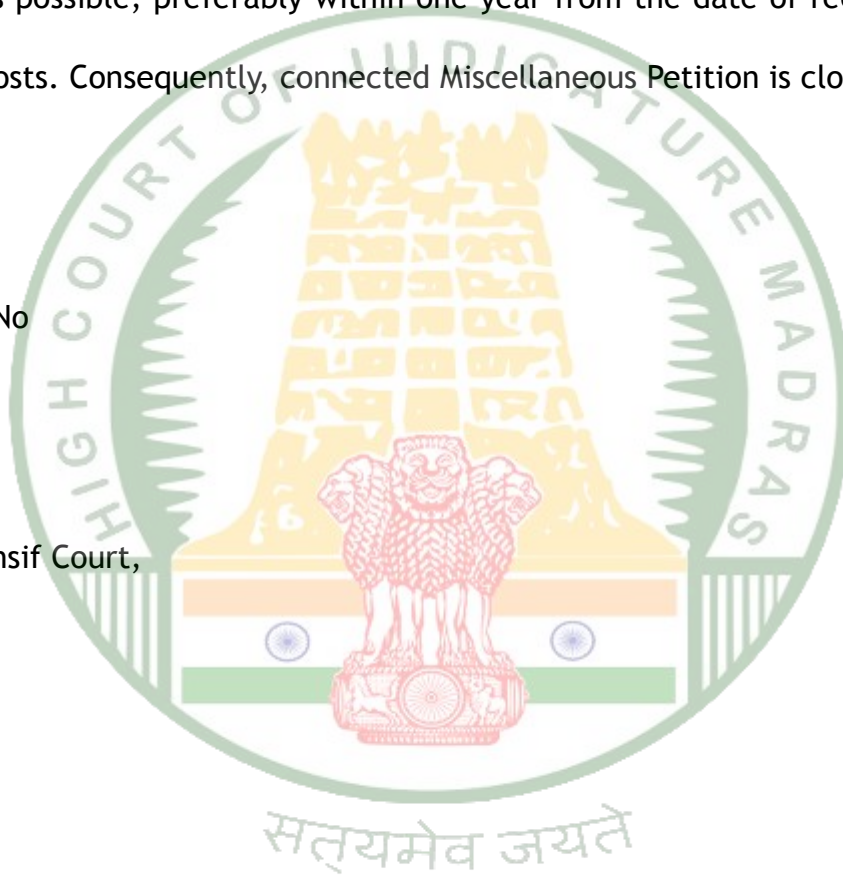
by the Trial Court after completion of evidence and arguments. The Trial Court is directed to conduct the case in O.S.No.405 of 2013 on a day to-day basis without adjourning the same beyond 10 working days at any point of time and bring the issue to a logical end as expeditiously as possible, preferably within one year from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

16.03.2020

Index: Yes / No
Internet: Yes / No
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To:

The District Munsif Court,
Namakkal



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