

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(PD).Nos.1345 & 1341 of 2019
and C.M.P.Nos.8785 & 8777 of 2019

1.A.Dhakshinamurthy
2.B.Damodharan

...Petitioners in
in both C.R.Ps

Vs

1.Sri Bala Murugan Modern Rice Mill,
Represented by its Proprietor S.Suresh
2. T.S.Murali

...Respondents
in both C.R.Ps.

Commn Prayer: Civil Revision Petitions filed under Article 227 of the Indian Constitution to allow this Civil Revision Petition and set aside order I.A.Nos.88 & 89 of 2018 in O.S.No.40 of 2017 old number O.S.No.29 of 2015 on the file of the District Court FTC, Arni, Tiruvannamalai on 07.03.2019 on the file of the Additional District Judge at Arni, FTC, Tiruvannamalai District.

For Petitioner in
both Cr.Ps : Mr.A.K.Rajaraman

For R1 in both Cr.Ps :Mr.N.Swaminathan

For R2 in both Cr.Ps : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed to set aside the order passed in I.A.Nos.88 & 89 of 2018 in O.S.No.40 of 2017 old number O.S.No.29 of 2015 on the file of the District Court FTC, Arni, Tiruvannamalai dated 07.03.2019 on the file of the Additional District Judge at Arni, FTC, Tiruvannamalai District.

2. I.A.No.88 of 2018 in O.S.No.40 of 2017 was filed to receive additional proof affidavit of P.W.1 and I.A.No.89 of 2018 was filed to receive documents mentioned in the petition. Both the revision arise from O.S.No.40 of 2017 C.R.P.No.1341 of 2019 is concerned with I.A.No.89 of 2018 to receive additional documents. C.R.P.No.1345 of 2019 arise from I.A.No.88 of 2018 to receive additional proof affidavit of P.W.1. Both are interconnected and arise in the same suit and common orders were passed.

3.The learned counsel for the petitioners submitted that the order of the trial Court is unsustainable and unjust as the trial Court did not consider the delay in filing additional affidavit and to receive the documents. They have not filed along with the plaint. The plaintiff had not assigned valid reason in the affidavit for non filing the documents which are rather in possession at the time of presenting plaint. Further, the documents are prepared for the purpose of the case only to fill up the lacuna. After seeing the written statement filed by the defendant, the plaintiff prepared the additional documents and filed before the Court. The trial Court mechanically allowed both the petitions to receive additional proof affidavit and additional documents. The order of the trial Court is contrary to law and reiterated other grounds raised in the revision and thus pleaded to set aside the order of the trial Court and allow the Revision Petition.

4.Learned counsel for the 1st respondent supported the order of the trial Court and further stated that original suit was filed before District

Court FTC, Arni, Tiruvannamalai, and it was numbered as O.S.No.29 of 2015. Thereafter, it was transferred to Additional District Judge at Arni, FTC, Tiruvannamalai District, and numbered as O.S.No.40 of 2017. In the Suit P.W.1 was examined and Exs.A1 to A7 were marked and posted for cross examination on 10.08.2018 and at that stage, this application was filed. There is no delay. The plaintiff's relief is to restrain the defendant and their men by means of permanent injunction from using the brand 'S.S.'. In order to probablise the plaintiff's case the documents mentioned in the petition from the year 2003 filed after a long period. The death certificate of plaintiff's father is filed. All these documents are relevant to support the plaintiff's case. Order 7 Rule 14(3) CPC is enabling provision to enable the Court to exercise the discretion to receive the documents despite the fact that there has been a delay. In the affidavit filed by the petitioner he had stated valid reason. The trial Court accepted the same and there is no error in the order of the trial Court and thus pleaded to dismiss the revision petition.

5. Heard the learned counsel for both parties and perused the materials available on record.

6. The plaintiff is the petitioner in the I.A and respondent in the Revision Petition and filed the suit for the relief of permanent injunction against the defendant and their men from using the brand "S.S" for rice without express permission of the plaintiff. Admittedly, at the time of filing the petition mentioned documents are 1 to 8 I.A was not filed along with the plaint. During the trial, the plaintiff filed an additional proof affidavit along with these documents before the Court. The trial Court after considering both the applications to receive additional proof affidavit to receive documents on the ground in allowed the same in the interests of justice for complete adjudication of the case.

7. I have considered the scope of Order 7 Rule 14(3) CPC which enables the Court to exercise the discretion to receive the documents despite the fact that there has been delay in the above said Rule. It has not stated any specific ground, while granting leave of the Court to receive the

documents in evidence. It is settled principle of law that if the documents had found to be relevant to decide the real issue of controversy, when the Court felt that interests of justice requires that documents may be received. I find no error in the order of the trial Court. I find no merits in this Revision petition and dismiss the petition. The trial Court is directed to receive the document subject to proof and relevancy at the time of examination of persons and further directed to dispose of the case within three months from the date of receipt of a copy of this order.

8. With the above direction, these Civil Revision Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Index: Yes/No
Speaking Order: Yes/No
vsn

17.12.2020

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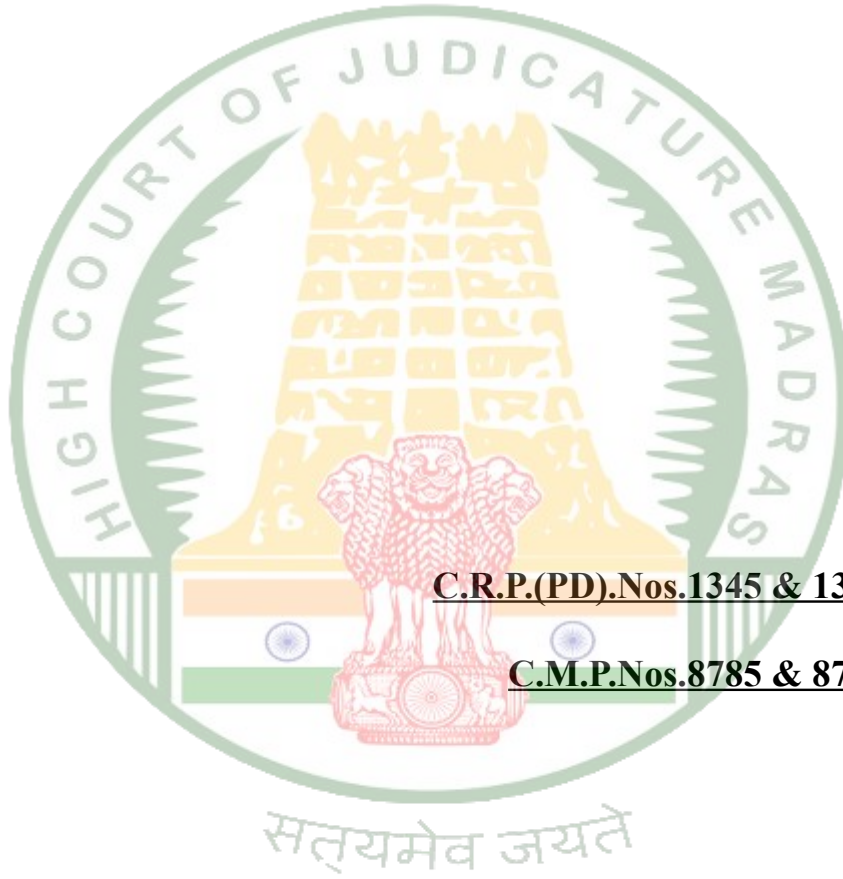


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V.SIVAGNANAM.J,

vsn



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