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CRP.PD.Nos.673, 676 & 677/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.12.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

CRP.PD.Nos.673, 676 & 677/2019 & CMP.Nos.4422, 4437 &
4440/2019

R.Radhakrishnan

.. Petitioner in all
the Petitions

Versus

1.Mr.Barathan

2.Mrs.Valliammal

3.The Branch Manager
Catholic Syrian Bank
No.474, 476 & 478,
Mahatma Gandhi Road
Puducherry 605 001.

4.C.Sadanandam

5.Union Territory of Puducherry
rep.by its Chief Secretary
Chief Secretariat Office
Puducherry.

6.The Sub Registrar, Oulgaret
The Sub Registrar Office
Reddiarpalayam
Puducherry.

.. Respondents in
all the Petitions



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Common Prayer:- Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order dated 03.11.2018 passed in IA.Nos.460, 461 & 462/2018 in OS.No.28/2010 by the learned I Additional District Munsif Judge, Puducherry.

For Petitioners in
all the Petitions : Mr.V.S.Senthil Kumar

For RR 1 & 2 in
all the Petitions : No appearance

For R3 in all the
Petitions : Mr.K.Rajasekaran

For R4 in all the
Petitions : Mr.K.Mohan

For RR 5&6 in
all the Petitions : Ms.G.Djearany

COMMON ORDER

- (1) These Civil Revision Petitions are directed against the orders dated 03.11.2018 passed by the learned I Additional District Munsif Judge, Puducherry, in IA.Nos.460/2018, 461/2018 and 462/2018, which were filed to reopen, to recall the plaintiff's side witness and to mark certain documents.



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- (2) The plaintiff in the suit in OS.No.28/2010 on the file of the learned I Additional District Munsif Judge, Puducherry, is the revision petitioner herein in all the above Civil Revision Petitions.
- (3) The revision petitioner filed the suit in OS.NO.28/2010 before the learned I Additional District Munsif Judge, Puducherry, for a declaration that the Sale Deed dated 11.04.1988 executed in favour of the 1st defendant's father regarding fifth item of suit "A" Schedule property and registered on 26.04.1988, is null and void and not binding on the plaintiff. The suit is also for a declaration to declare yet another Sale Deed dated 31.03.1995 executed by the 1st defendant and his father in favour of the 2nd defendant as null and void and not binding on the plaintiff. As against defendants 5 and 6 in the suit, the prayer was to make necessary entries in the Revenue Records consequent to the prayer, declaring the Sale Deeds as null and void.
- (4) After commencement of the trial, the revision petitioner filed IA.Nos.460, 461 & 462/2018 in OS.No.28/2010 to reopen, to



recall PW1 and for marking certain documents through PW1. All the three Interlocutory Applications were seriously contested by the defendants/respondents mainly on the ground that the applications are belated and are filed to protract the proceedings.

- (5) The Lower Court dismissed all the three Interlocutory Applications only on the ground that the three documents filed by the plaintiff/revision petitioner are Xerox copies and the same are without proper authentication. Though the documents are public documents, it was held that Xerox copies cannot be marked through chief examination of any party and only certified copies can be marked.
- (6) The learned counsel for the revision petitioner / plaintiff pointed out that long before the disposal of the Interlocutory Applications, the revision petitioner/plaintiff had filed a Memo along with certified copies of all the three documents to replace the Xerox copies of the same. Therefore, on the basis of the Memo, the learned counsel for the revision petitioner/plaintiff contended that the Lower Court has passed the common order in the above Interlocutory Applications without an application of mind and



without considering the fact that the revision petitioner/plaintiff had filed the certified copies of the documents to replace the certified copies.

- (7) It is well settled that the Court can recall a witness at any stage either on its own motion or on an application filed by any party to suit to protect the substantial rights of the parties when no serious prejudice is likely to be caused to the defendants. It is stated that the documents sought to be marked are public documents and certified copies are available in Court and the Applications cannot be dismissed on the ground that only Xerox copies are filed. The learned Judge has passed the order without considering the fact that the certified copies of the documents had already been filed by the revision petitioner/plaintiff.
- (8) Despite notice being served on all the respondents, there is no representation for respondents 1 and 2.
- (9) This Court heard the submissions of the respective learned counsels appearing for respondents 3 to 6. Respondents 5 and 6 are only formal parties.



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- (10) Learned counsels appearing for respondents 3 and 4 though made their submissions on merits, are unable to dispute the fact that certified copies are already filed by the revision petitioner/plaintiff in Court.
- (11) In view of the factual position, this Court is unable to sustain the common order passed by the Court below.
- (12) In the result, the Civil Revision Petitions are **allowed** and the common order 03.11.2018 passed in IA.Nos.460, 461 & 462/2018 in OS.No.28/2010 by the learned I Additional District Munsif Judge, Puducherry, is **set aside**. The Interlocutory Applications stand allowed. The recalling of witness shall be confined to the marking of certified copies. No costs. Consequently, connected miscellaneous petitions are closed.

03.12.2021

AP

Internet : Yes

To

1.The Branch Manager

Catholic Syrian Bank

No.474, 476 & 478,

Mahatma Gandhi Road

Puducherry 605 001.

2.Chief Secretary,

Union Territory of Puducherry

Chief Secretariat Office, Puducherry.

3.The Sub Registrar, Oulgaret, The Sub Registrar Office, Reddiarpalayam,



Puducherry.

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S.S.SUNDAR, J.,

AP

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