

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.7.2021.

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. (PD) No.3518 of 2015

and

C.M.P.No.1 of 2015

Chevalier T.Thomas Educational Trust,
rep. by its Trustees,
No.16, St. Mary's Road,
Sembiyam, Chennai-11.

Petitioner

vs.

P.V.R.S.Manikumar

Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and final order dated 8.10.2013 passed in I.A.No.141 of 2013 in O.S.No.4 of 2008 on the file of the Subordinate Judge, Ponneri.

For Petitioner : Mr.S.Vennimalai

For Respondents : Mr.P.Sidharthan

ORDER

The revision has been filed against the order dated 8.10.2013 passed in I.A.No.141 of 2013 in O.S.No.4 of 2008 on the file of the Subordinate Judge, Ponneri.

2. The revision petitioner is the plaintiff.

3. The case of the revision petitioner/plaintiff is that they are a Public Charitable Trust running several educational institutions and that on 31.12.1997 the respondent/first defendant had, by a registered gift deed, gifted 'B' schedule properties in Guduvanchery Village to the Trust and thereafter, on 91.1998, by another registered gift deed, had gifted suit 'A' schedule properties to the Trust. The Trust had accepted the gifts and had taken possession and had been in possession and enjoyment of the said lands.

4. It is the further case of the petitioner that when they were taking steps to establish educational institutions, they came to know that the respondent/defendant, the donor had, without notice to the plaintiff, unilaterally cancelled the gift deeds vide the cancellation deeds dated 27.11.2005 and thereby the petitioner/plaintiff had filed the suit seeking the relief of declaration that the unilateral cancellation deeds dated 27.10.11.2005 executed by the first defendant are null and void.

5. The respondent/first defendant had filed written statement stating that the gift deed was a conditional one and since the donee Trust did not comply with the conditions of the gift and did not administer the Trust properly in accordance with law, he had cancelled the gift deeds.

6. Issues were framed and the case was taken up for trial. PW1 was examined in chief and during the cross examination of PW1, the respondent/first defendant had filed the petition under Order XI Rule 14 CPC to direct the petitioner/plaintiff to produce the documents listed in the petition schedule. The petitioner/plaintiff objected to the petition stating that the documents sought to be produced were not relevant for the case.

7. The Trial Court, finding that the documents called for by the respondent/first defendant are related to the revision petitioner's educational institutions and that they were available with the revision petitioner, had allowed the petition to give opportunity to both sides to meet the ends of justice against which, the present revision has been filed.

8. Learned counsel for the petitioner would submit that the petition has been filed by the respondent/first defendant at the stage of cross-examination only to delay the trial and the documents sought for by the respondent/first defendant has no relevance to the case and there is no necessity for production of the documents, however, the Trial Court, without taking into consideration the scope of the provisions, had erred in ordering for production of the documents before the court and thereby, he would seek to set aside the order

passed by the Trial Court.

9. Per contra, the learned counsel appearing for the respondent/first defendant would submit that the suit has been filed to declare the cancellation deeds as null and void. He would further submit that the gift deeds dated 31.12.1997 and 9.1.1998 are conditional gift deeds and there was a specific clause that the donee Trust was entitled to hold the same as far as the property donated was used for establishing and running Engineering College and ancillary educational institutions. In the gift deeds, it has been specifically stated that if the donee or successor in the office ceases to use the property for any reason whatsoever as provided, the said property shall be transferred to the donor by way of another separate deed to be registered at that time.

10. The learned counsel for the respondent/first defendant would further submit that the revision petitioner/plaintiff did not run the Trust as per the conditions of the gift deed thereby warranting the respondent/first defendant to cancel the gift deeds. He would further submit that a duty is cast upon the petitioner/plaintiff to prove that the conditions of the gift deeds were duly complied with and thereby, there was a need and necessity for production of those documents before the court. He would also submit that the

documents of the Trust being public documents, the petitioner/plaintiff cannot shy away from producing the documents in the court. It is further submitted by the learned counsel that it is not the case of the petitioner/plaintiff that the documents are not available with the petitioner/plaintiff and in fact, the petitioner/plaintiff had admitted that the documents are available with him and it is also revealed from the pleadings in para 8 and 9 of the plaint that the documents are available with him.

11. The learned counsel for the respondent/first defendant would, therefore, submit that the Trial Court finding that production of the documents are necessary to meet the ends of justice, had allowed the petition and thereby directed the petitioner/plaintiff to produce those documents and there is no infirmity in the order passed by the Trial Court.

12. In reply, the learned counsel for the petitioner/plaintiff would submit that though the petitioner/plaintiff had admitted possession of the documents, there is no finding by the Trial Court with regard to the relevancy and necessity of the documents and in the event of the documents being produced before the court, the relevancy of the documents can be decided only during trial and they cannot be allowed to be marked without there being any

relevancy.

13. Heard the learned counsel appearing for the parties and perused the materials available on record.

14. It is the case of the revision petitioner/plaintiff that the gift deeds executed by the respondent/first defendant had been cancelled unilaterally without notice to the plaintiff, whereas it is the case of the respondent/first defendant that the properties were conveyed by conditional gift deeds and in the event of the condition not being complied with by the Trust, the respondent/first defendant were entitled to cancel the gift deeds. It is the further case of the respondent/first defendant that the donee Trust had not run it in accordance with law and the conditions of the gift were not duly complied with.

15. In view of the above, this court is of the opinion that the documents sought for by the respondent respondent/first defendant are relevant for deciding the case, subject to its admissibility. There is no error or infirmity in the order passed by the Trial Court in allowing the petition seeking production of documents.

16. The civil revision petition is de void of merits and it stands dismissed. No costs. The connected Miscellaneous Petition is also

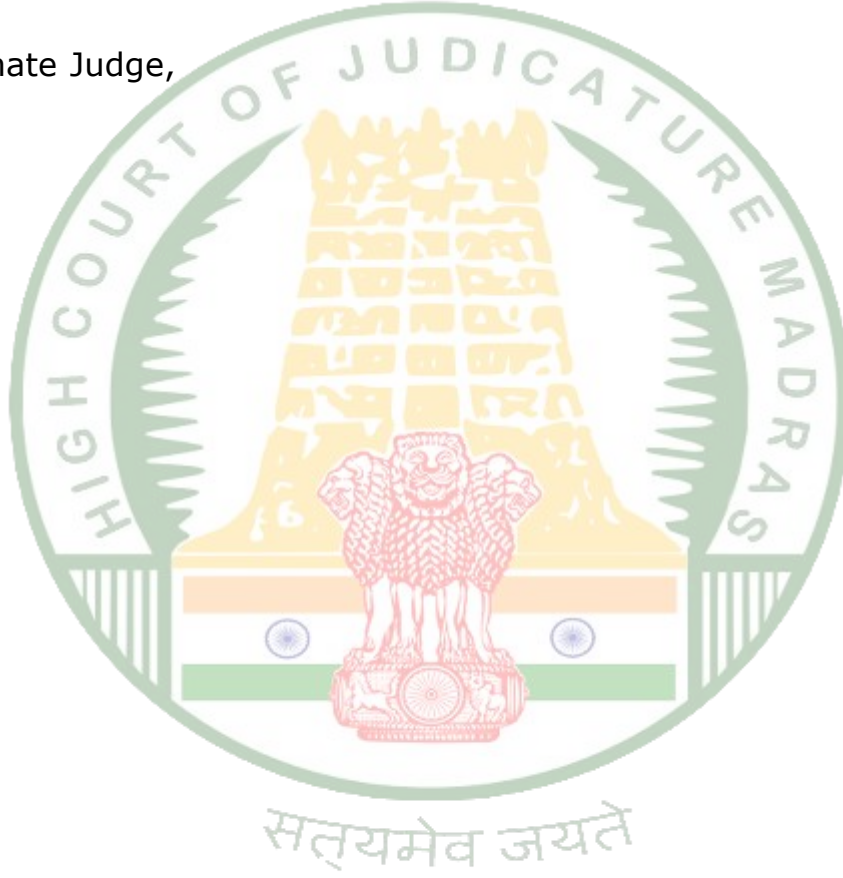
dismissed.

26.7.2021.

Index: Yes/No.
Internet: Yes/No.
ssk.

To

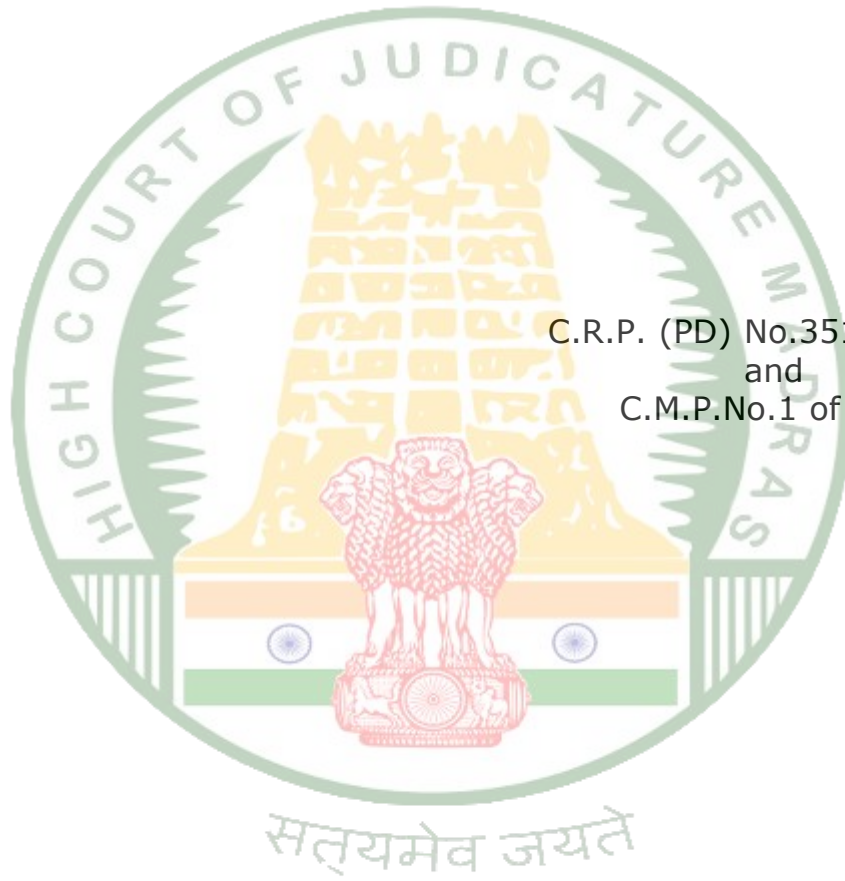
Subordinate Judge,
Ponneri.



WEB COPY

A.D.JAGADISH CHANDIRA, J.

Ssk.



C.R.P. (PD) No.3518 of 2015
and
C.M.P.No.1 of 2015

WEB COPY 26.7.2021.