

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.557 of 2013 and
MP.No.1 of 2013

Kalivaradhan

..Petitioner

Vs.

A.S.Mani

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned XVI Assistant City Civil Judge, Chennai dated 30.01.2009 in IA.No.1739 of 2009 in OS.No.9271 of 1994.

For Petitioner : Mr.T.M.Hariharan
For Respondent : Notice served

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order passed in IA.No.1739 of 2009 in O.S.No.9271 of 1994 on the file of the learned XVI Assistant City Civil Judge, Chennai dated 30.01.2009 thereby partly dismissed the application filed to seeking to

receive the documents mentioned in the petition as additional documents along with the earlier documents as mentioned in the plaint to prove the claim of the petitioner / plaintiff.

2. The learned counsel for the petitioner submitted that the petitioner is the absolute owner of the house ground and premises bearing door No.58, Pillaiyar Koil Street by virtue of three sale deeds. He obtained patta from the revenue officials for the survey Nos.31/2, 32/2 dated 17.09.1992. While being so, the respondent herein is a stranger to the plaintiff and his property and without any right or title over the property attempted to interfere with the peaceful possession and enjoyment of the suit property. Therefore, the petitioner was constrained to file the suit for injunction as against the respondent herein. He further submitted that the petitioner filed proof affidavit and marked Ex.P1 to P5 alone and he could not be able to produce the documents mentioned in the petition as Ex.A.6 to A.14 at the time of filing the proof affidavit. Therefore, the petitioner filed petition to receive the documents mentioned in the petition as additional documents. The trial court partly allowed the petition and permitted the petitioner to mark Ex.A6 and Ex.A9 alone. In respect of remaining documents, the trial court dismissed the petition for the reason that those documents are subsequent to the suit.

3. The learned counsel for the petitioner would submit that insofar as Ex.A7, A10, A11 and A14 are concerned, though those documents are dated subsequent to the suit, those are only tax demand card and death certificate issued by the Corporation of Chennai.

4. Though notice was served to the respondent herein and name also printed in the cause list, no one appeared on behalf of the respondent before this Court in person or through pleader.

5. The petitioner is the plaintiff. He filed suit for permanent injunction. He filed proof affidavit and marked Ex.P1 to P5 alone and he could not be able to produce the documents mentioned in the petition as Ex.A.6 to A.14 at the time of filing the proof affidavit. On perusal of those documents, the documents mentioned as A7 is the death certificate issued by the Corporation of Chennai dated 20.09.1999 of the vendor of the petitioner, one, Andal Ammal who died in the year 1994 September that is prior to the suit. The documents mentioned as Ex.A10 is Water and Sewerage tax cum charges card for the schedule property. Ex.A11 is the property tax demand card from the year 1986 to 2009. The document mentioned as Ex.A14 is the property tax demand card with payment of receipt paid upto date. In respect

of other properties, namely mentioned as Ex.A8, A9, A12 and A13 are receipts of various tax paid by the petitioner herein after the suit. Therefore, the trial court rightly rejected the application insofar as the documents mentioned as Ex.A8, A9, A12 and A13. Insofar other documents, the trial court failed to see that those are prior to the suit.

6. In view of the above discussion, this civil revision petition is partly allowed in respect of documents mentioned in the petition as Ex.A7, A10, A11 and A14 and the trial court is directed to receive the said documents as additional documents. Insofar as other documents, the trial court rightly rejected the petition. Further, considering that the suit is of the year 1994, the trial court is directed to complete the trial in OS.No.9271 of 1994 within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to Costs.

04.01.2021

Speaking/Non-speaking order
 Index : Yes/No
 Internet : Yes/No
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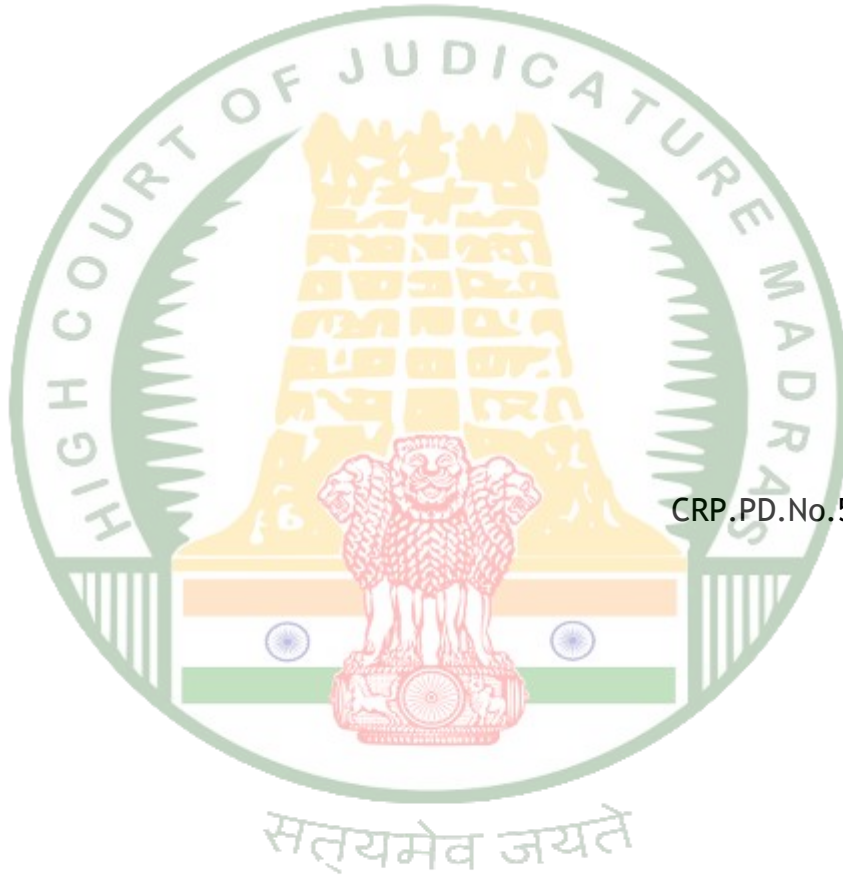
The learned XVI Assistant City Civil Judge,
Chennai



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G.K.ILANTHIRAIYAN,J.

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CRP.PD.No.557 of 2013

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