



C.R.P (PD). No.970 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.11.2021**

CORAM

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

C.R.P (PD). No.970 of 2019
and C.M.P.No.6423 of 2019

Balasundaram

...Petitioner

Vs

Srinivasan

...Respondent

Prayer : Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order passed in I.A.No.534 of 2018 in O.S.No.180 of 2017 dated 07.02.2019 on the file of the Sub Court, Thiruvannamalai.'

For Petitioner : M/S.K.G.Senthil Kumar

For Respondent : No Appearance

ORDER

The revision petition is directed against the order dated 07.02.2019 made in I.A.No.534 of 2018 in O.S.No.180 of 2017, refusing to receive the documents on the side of the petitioner / defendant.



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2. The revision petitioner herein is the defendant in O.S.No.180 of 2017. The respondent/plaintiff has filed the suit for recovery of money, based on an alleged Mortgage Will dated 07.07.2021. The revision petitioner/defendant also contested the suit through his counsel by filing the written statement on 24.02.2018. During the pendency of the suit, he filed an application in I.A.No.534 of 2018 under Order 8 Rule 1-A and Section 151 C.P.C to receive the documents on his side. The said application was opposed by the respondent/plaintiff. Upon hearing both sides, the Trial Court dismissed the said petition concluding that the receipts, which he wanted to produce on his side, are with insufficient stamp duty and the said documents were not produced at the earliest stage and also held that the reason for the delayed submission of the said documents, is not an acceptable one. Accordingly, the said application was dismissed. Aggrieved by the same, the defendant has preferred this revision.

3. Heard the learned counsel for the petitioner/defendant and perused the materials available on record. There is no representation on the side of the respondent, inspite of notice served on him.



4. The learned counsel for the revision petitioner submitted that even at the time of filing of the written statement in the year 2018 itself he mentioned the said receipts in paragraph No.6 of the written statement and to avoid further complications, with abundant caution, he filed an application to receive the said receipts. But, the learned trial Judge, without appreciating the submissions made in the written statement, erroneously dismissed the same. Hence, he prayed to allow the revision and permit him to produce the said receipts on his side to prove his claim.

5. On perusal of paragraph No.6 of the written statement, it is seen that the revision petitioner mentioned certain facts that he paid the interest and also possessed the receipts to that effect. Now, he filed an application to receive the said receipts as part of the document in I.A.No.534 of 2018 in O.S.No.180 of 2017 on the file of the Sub Court, Cheyyar, to prove his case. But, the learned trial Judge erroneously concluded that only in order to drag on the proceedings, the petitioner/defendant has filed the said application.

6. As discussed above, even at the time of filing of the written statement itself, the revision petitioner/defendant mentioned about the said receipts, which reveal that he is not intended to drag on the proceedings and



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in order to defend his case, he filed the said receipts. The Trial Court is the fact finding Court, where the parties are permitted to produce all the documents to prove their claims and without appreciating the legal facts, the learned trial Judge erroneously dismissed the said application, which calls for interference by this Court.

7. Accordingly, the impugned order passed by the learned trial Judge in I.A.No.534 of 2018 in O.S.No.180 of 2017 dated 07.02.2019, is set aside and the Civil Revision Petition is hereby allowed. The revision petitioner/defendant is permitted to produce the said receipts on his side, subject to the objection, if any, made by the respondent / plaintiff at the trial stage. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2021

Speaking Order : Yes

Index : Yes/No

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To

1. The Sub Judge, Thiruvannamalai.
2. The Section Officer, V.R.Section,
High Court, Madras



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T.V.THAMILSELVI, J.

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