

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)Nos.1282 & 1283 of 2021

and

CMP. No.10044 of 2021

[Through Video Conferencing]

Chandrasulochana ...Petitioner / Plaintiff in both CRPs

Vs.

1. Vadivelu
2. P.Amul
3. The Sub Registrar
Arakkonam Sub Registrar Office
Arakkonam, Ranipet District
4. The Collector of Vellore District
Collector Office, Vellore

... Respondents/Defendants
in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India seeking to set aside the order and decretal order dated 03.02.2021 passed in I.A.Nos.1 and 2 of 2020 in O.S.No.110 of 2012 enabling the petitioner to give rebuttal evidence in O.S.No.110 of 2012 pending on the file of District Munsif Court at Sholinghur.

For Petitioner in both CRPs : Mr.A.M.Ravichandran

For Respondents in both CRPs : No Appearance

COMMON ORDER

The plaintiff in O.S.No.110 of 2012 now pending on the file of the District Munsif Court at Sholingur is the revision petitioner herein.

2.The suit is now pending for the past nearly 9 years. It has slowly progressed and finally recording of evidence has been commenced. However the plaintiff has a grievance.

3.It is stated that for further recording of evidence in chief on the plaintiff's side, the suit was posted for 12.02.2020.

4.The learned counsel appearing for the plaintiff was not able to appear before the Court owing to other judicial engagements and evidence of the plaintiff was therefore closed. The matter thereafter proceeded in its normal course and was then posted for arguments. At that stage, the plaintiff had filed I.A.No.2 of 2020 seeking to re-open the evidence of the plaintiff and to recall the witness for filing additional proof affidavit, with a specific request to file three additional documents namely the Judgment in O.S.No.330 of 1988, Judgment and decree in A.S.No.103 of 1993. It is claimed that the additional proof affidavit was filed.

5. In view of the amendment to the Code of Civil Procedure, examination in chief should be recorded through proof affidavits. Practically in all the cases the proof affidavit is a replica of the plaint. There is no occasion for any of the facts which had been pleaded in the plaint to be omitted in the proof affidavit.

6. Earlier when chief examination was recorded orally, the witness should not be led and therefore, there was a strict adherence to the rule that the plaintiff can state only what he knew to his knowledge directly. But that procedure has drastically changed as stated above.

7. The Plaintiff, while filing the suit had filed eight documents and those documents had also been taken on record. These three documents are documents not filed along with the plaint. If the plaintiff had wanted to introduce them, then he should file an application to produce additional documents and thereafter should seek permission to re-open the evidence and to recall the witness.

8. A perusal of the documents show that they are certified copies of the Judgment and Decree in O.S.No.330 of 1988 and A.S.No.103 of 1993. The

said doubts may be examined by the learned District Munsif at Sholingur and if they are relevant, the learned Munsif may place reliance on the same. It all depends on the nature of pleadings and the nature of evidence recorded.

9.I would not therefore interfere with the order passed, but rather give an opportunity to the counsel for the plaintiff while advancing arguments, to also placed on record these three documents namely the Judgment in O.S.No.330 of 1998 and Judgment and Decree in A.S.No.103 of 1993 and impress upon the District Munsif their relevancy and thereafter, the learned District Munsif, Sholingur may take a considered decision on their applicability with respect to the issues in O.S.No.110 of 2012.

10.Let the plaintiff argue the matter and give the privilege to the learned District Munsif at Sholingur to pass a Judgment on merits. The said matter is now posted for arguments. I hope that the learned District Munsif at Sholingur would bestow attention and dispose of the suit itself on or before 31.08.2021. I would place an obligation on the learned counsels for the plaintiff and defendant to argue the matter without taking unnecessary adjournments.

11.With the above observations, these Civil Revision Petitions are disposed of. Consequently, the connected miscellaneous petition also stands closed. No order as to costs.

09.07.2021

Index:Yes/No
Internet:Yes/No
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To

1.The District Munsif Court, Sholinghur.



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C.V.KARTHIKEYAN, J.

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