

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.1704 of 2021
and C.M.P. No.13195 of 2021

M/s.Poorna Firms,
Rep. by its Partner,
S.Ravirathinam,
No.3/545, East Coast Road,
Neelankarai,
Chennai - 600 115.

...
Petitioner /
5th Defendant

versus

1.A.R.Suresh
2.Jayalakshmi Ganesan
3.S.Ganapathy

...
Respondents /
Defendants 1 to 3

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order dated 20.04.2021 in I.A.No.657 of 2019 in I.A.No.384 of 2019 in O.S.No.74 of 2019 on the file of the learned District Munsif, Tambaram.

For Petitioner : M/s.R.Thenamirtha Shyamala

ORDER

This Civil Revision Petition is filed to set aside the order dated 20.04.2021 passed in I.A.No.657 of 2019 in I.A.No.384 of 2019 in O.S.No.74 of 2019 on the file of the learned District Munsif, Tambaram.

2. The petitioner herein is the fifth defendant in the suit. The suit was filed by the plaintiff, seeking the relief of permanent injunction, restraining the defendants, their men, servants and agents from evicting the plaintiff, without adhering due process of law.

3. The learned counsel for the petitioner submitted that, the petitioner has filed I.A.No.384 of 2019 under Order XII Rule 8 of C.P.C. for production of certain documents from the respondents. After receipt of the notice, the respondents have not produced the documents. Therefore, I.A.No.657 of 2019 was filed seeking direction to the respondents to produce the aforesaid documents. The learned trial Judge, after hearing both the parties, dismissed the petition. Against the said dismissal order, the present Civil Revision Petition is filed.

4. The learned counsel for the petitioner submitted that the property said to have been purchased by one Subramania Iyer was already sold and therefore, the above said documents are absolutely necessary to put forth the case of the petitioner. She further submitted that without considering the submissions made by the petitioner before the lower Court, the learned trial Judge dismissed the petition. Therefore, she prays for setting aside the order of the learned District Munsif, Tambaram and allowing this Civil Revision Petition.

5. Perusal of the copy of the notice issued and the petition filed in I.A.No.657 of 2019 shows that the petitioner sought the respondents to produce the aforesaid original documents. All these documents are registered documents and they are public documents. Why the original documents are sought to be produced, there is no proper explanation.

6. It is seen that the notice to produce the documents was given to the respondents and they failed to respond stating the reason that the documents are not in their custody. When the respondents say that item

nos.1 to 3 of the documents are not in their custody, we cannot compel them to produce the documents. So far as item no.4 of the document, it is said in the counter that this document was produced on the file of the learned Principal District Munsif, Alandur in O.S.No.461 of 2001. After verification, it is said that this document was returned. It is also claimed that the xerox copy of the document is filed in the suit.

7. All these documents are public documents. The petitioner can very well obtain registration copies of these documents and produce during the course of trial to substantiate its case. Therefore, it is not necessary to direct the respondents to produce the aforesaid original documents. The learned trial Judge has considered all these aspects and dismissed the petition stating the reason that item nos.1 to 3 are not in their custody and that there is no reason given in the petition as to the relevancy of these documents. With regard to the finding that the relevancy of the documents, is not mentioned in the petition, omission to mention the relevancy of the document, is not a ground for dismissal. It is said that these documents are necessary for proving the case of the petitioner. It is enough

reason for the production of the documents. Dismissal of the petition on the ground that item nos.1 to 3 of the documents are not in the custody of the respondents, is correct.

8. Therefore, this Court finds no reason to interfere with the order of the learned District Munsif, Tambaram and the same is confirmed. The petitioner is given liberty to produce the registration copies of these documents at the time of trial. The plea made by the learned counsel for the petitioner that the petitioner may be permitted to produce these documents in the enquiry in I.A.No.657 of 2019 cannot be entertained for the reason that the issue of rejection of plaint can be considered only on the basis of plaint averments and plaint documents.

9. With this observation, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

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24.08.2021

Speaking order / Non-speaking order

Index : Yes / No

sri

G.CHANDRASEKHARAN, J.

sri

To

The District Munsif, Tambaram.



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