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C.R.P.No.908 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.R.P.No.908 of 2021 and
C.M.P. No.7419 of 2021

B.Alagammal

... Petitioner

..Vs..

1.M.Sridharan

2.S.Pramila

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 23.03.2021 made in I.A. No.2 of 2021 in O.S. No.47 of 2017 on the file of the District Munsif Court, Thiruvottiur.

For Petitioner : Ms.Thenmozhi Shivaperumal

ORDER

The revision petitioner is the plaintiff in O.S. No.47 of 2017 on the file of the District Munsif Court, Thiruvottiur. She filed the suit for permanent injunction restraining the respondents from interfering with her peaceful possession and enjoyment of the suit schedule property more fully described in the plaint as a dwelling house bearing Door No.41, Manali Village, Sokkammal Kuzatheru, Ambattur Taluk, Chennai with a vacant plot measuring 4026 sq.ft.



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2.The respondents defendants filed a written statement and both the parties went for trial after settlement of issues. The plaintiff examined herself and one other witness and marked Ex.A1 to Ex.A8.

3.When the matter was posted for examination of defendants' side evidence, the plaintiff filed an Application under Order VII Rule 14 sub clause 3 of the C.P.C. in I.A. No.2 of 2021 to receive certain additional documents. The respondents defendants filed a detailed counter and after full contest, the learned District Munsif, Thiruvottiyur vide his order dated 23.03.2021, partly allowed the said Application on the following grounds:

1)There are no pleadings in the plaint with regard to the documents sought to be marked presently by the plaintiff except Document No.1;

2)Moreover, some of the documents are subsequent to the filing of the suit and hence, they cannot be marked.

Aggrieved over the same, the present C.R.P. is filed.

4.Learned counsel for the petitioner would contend that the Trial Court was wrong in observing that there are no pleadings in the plaint with regard to the documents which are sought to be marked



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by the plaintiff and she also drew the attention of this Court to the pleadings in the plaint.

5.A perusal of the plaint shows that except document No.1, which is a Mortgage Deed executed by the plaintiff in favour of the Indian Bank, nothing is mentioned with regard to other documents. For better understanding, the additional documents sought to be marked by the plaintiff is shown in the following tabular column:

<i>S.No.</i>	<i>Date</i>	<i>Particulars of the document</i>	<i>Remarks</i>
1	03.05.2011	Memorandum of Title Deeds	Certified copy
2	17.04.2014	Rental Agreement	Original
3	10.06.2015	Deed of General Power	Certified Copy
4.	06.11.2017	Encumbrance Certificate	
5.	26.05.2017	Notice of Name Transfer	Original
6.	18.05.2017	Property Tax Receipt	Original
7.	02.06.2017	Property Tax Receipt	Original
8.	13.06.2017	Intimation Letter given by the plaintiff before cancellation of Power of Attorney along with Acknowledgement Card	Original
9.	30.07.2018	Report given by the Assistant Engineer (EB)	
10.	25.11.2018	Rental Agreement	Original
11.	10.12.2018	Chennai Corporation Tax Assessment (Notice No.7)	Original

6.It is pertinent to point out that the suit was filed on 18.10.2016 and though the plaintiff in her plaint has contended that she has been paying property tax for the suit property, the property



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tax receipts which are subsequent to the suit are sought to be marked as additional evidence. Moreover, document Nos.3 to 9 are all the documents subsequent to the suit and there is no reference about rental agreement dated 17.04.2014 in the plaint. In fact, the plaintiff in her plaint has categorically stated that she is residing in the suit property and nowhere it has been stated that the portion of the property is in possession of the tenants.

7.Heard Ms.Thenmozhi Shivaperumal, learned counsel for the revision petitioner.

8.Though the notice was served on the respondents and their names are printed in the cause list, there is no representation on behalf of the respondents.

9.Learned counsel for the petitioner would contend that the application in I.A. No.2 of 2021 was filed only for reception of documents and the Trial Court could have allowed the Application subject to proof and relevancy and it ought not to have rejected the reception of documents in toto.



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10.The arguments advanced by the learned counsel for the revision petitioner may seem to be attractive. But the Trial Court seems to have felt that when there are no pleadings in the plaint for the documents, which are now sought to be filed need not be received as the same would only amount to increasing the volume of the bundle.

11.The Trial Court, in fact, had analysed each and every document and had come to a definite conclusion that except document No.1, other documents cannot be marked. The relevant portion of the order of the Trial Court is extracted hereunder:

'4. There is no oral and documentary evidence for both side parties. Heard both sides. The petitioner filed the present application to receive the documents namely Document Nos.1 to 11. The reason stated by the petitioner is that in order to prove his case the documents are very essential, thereby the petitioner herein filed the present petition. On perusal of petition enclosed affidavit the petitioner has not stated out the reason for not filing the present documents while filing the suit. It is pertinent to mention that the Affidavit is sworn by one Baskaran and he is not a party to the suit. The respondent vehemently made objection for allowing the present petition and stated that in order to fill up the lacunae in the cross examination made by this



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respondent counsel on behalf of the respondent, the petitioner herein filed the present application and further stated the petition mentioned documents were not stated in the pleadings, without pleadings the documents could not be received, thereby the respondent counsel vehemently placed his objections in receiving the documents. On perusal of Document No.1 dated 03.05.2011, the memorandum of title deed deposited before Indian bank, the petitioner had stated the same in her plaint that the petitioner has mortgaged her property in Indian Bank and obtained loan in order to meet her expenses. Document Nos.2 to 11 were not stated in the pleadings and they were all found to be after the filing of the suit. The suit was filed on 09.11.2016 and the same was taken into the file of this Court on 24.02.2016. Whereas all the documents which the petitioner sought to received by this court is pertaining to the period, after the filing of the suit namely the tax receipt, tax assessment, the rental agreement and the report given by the Assistant Engineer. Further more the petitioner herein had not mentioned in the plaint about the rental agreement executed between herself and her tenant, even the document is prior to filing of the suit. To its contrary, the petitioner claimed that she alone is in possession and enjoyment of the suit property. On the other hand in the plaint it is not stated that she has rented out the premises to the third party tenant. Further more the petitioner has not mentioned about the document No.4437/2015, the General Power of Attorney executed



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by one P.Venkatathri @ P.V.Raju in favour of one G.Duraisamy. The said document also not stated in the present pleadings. Particularly the Document No.8 dated 13.06.2017, the intimation letter send by the petitioner to the respondent has not been filed while filing of the suit. As already stated the Document No.8 is dated 13.06.2017 whereas the suit was taken on file on 24.02.2017 (i.e.) the Document No.8 executed after. Except Document No.1, all other documents were not pleaded in the plaint and the same were found to be after the filing of the suit. In view of the above this Court comes to the conclusion of receiving Document No.1 alone, all other documents were not received by this court.

12.In my opinion, the Trial Court was absolutely right in making the above observation and therefore, the same does not warrant any interference by this Court. Hence, the Civil Revision Petition is dismissed. Consequently, connected M.P. is closed. No costs.

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R.HEMALATHA, J.

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To

- 1.The District Munsif Court,
Thiruvottiyur.
- 2.The Section Officer,
V.R. Section, High Court, Madras.

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C.M.P. No.7419 of 2021

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