



O.S.A.No.288 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

O.S.A.No.288 of 2022
and C.M.P.No.19110 of 2022

Saraswathy Sadasivan

.. Appellant

Vs

1. G.Viswanathan
2. S.Ravichandran
3. Sriram Vaidheeswaran
4. Sambasivam
5. Rajendra Babu
6. Rain Tree Flat Owners Association,
represented by its Secretary,
Having office at No.21, Venus Colony,
II Street, Alwarpet, Chennai - 600 018.
7. R.Ramesh

.. Respondents

Appeal filed under XXXVI Rule 1 of Original Side Rules r/w Clause 15 of Letters Patent, to set aside the order dated 21.09.2022 passed in A.No.2142 of 2022 in C.S.No.416 of 2020.

For Appellant : Mr.Vineet Subramani



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JUDGMENT

(Made by *P.N.PRAKASH, J.*)

Seeking a direction to set aside the order dated 21.09.2022 passed in A.No.2142 of 2022 in C.S.No.416 of 2020, the present original side appeal has been filed.

2. The appellant/plaintiff, who is a resident of Raintree Apartment, has made allegations against the office bearers of the flat association and has filed a suit in C.S.No.416 of 2020 for various reliefs. The suit is ripe for trial. While so, the appellant/plaintiff filed an application in A.No.2142 of 2022 for production of certain documents relating to the bank accounts of the association.

3. It appears from the statement of the learned counsel for the respondents/defendants that the documents have been produced. However, the learned counsel for the appellant/plaintiff disputed the same and questioned the veracity of the documents produced as well submitted that none of the documents that were called for by the appellant/plaintiff were



produced. However, the learned Single Judge by order dated 21.09.2022

has dismissed the application with the following observations:

"3. The veracity of the documents can be tested only during the course of evidence. If the documents have not been produced or partially produced, then, necessary advantage can be taken under Section 114(g) of the Indian Evidence Act, 1872, and at the time of advancing arguments, it can be urged that adverse inference should be so drawn. However, during the evidence, the documents additionally produced must be tested during cross examination."

4. Mr.Vineet Subramani, learned counsel for the appellant/plaintiff contended that the learned Single Judge has not gone into the documents that were allegedly produced by the respondents/defendants and has mechanically dismissed the application.

5. In our opinion, we find no infirmity in the order dated 21.09.2022 passed in A.No.2142 of 2022 warranting interference in this appeal, inasmuch as, the learned Single Judge has clearly stated that if the documents called for by the appellant/plaintiff is not produced, he could take advantage of it under Section 114(g) of the Indian Evidence Act, 1872.



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6. As regards the veracity of the documents produced by the respondents/defendants, it can be tested only whilst the witnesses testifies.

In such a view of the matter, we find no infirmity in the order 21.09.2022 passed in A.No.2142 of 2022 in C.S.No.416 of 2020 warranting interference and accordingly, O.S.A.No.288 of 2022 stands dismissed. Connected C.M.P. is closed.

(P.N.P., J.) (TKRJ)
10.11.2022

ars/nsd



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P.N.PRAKASH, J.
and
RMT.TEEKAA RAMAN, J.

nsd

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