



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.R.P.NO.2895 OF 2017

A.Manickam

... Petitioner

Versus

1. P.Samiyappan
2. Kanaka
3. Nagamani
4. Shanthi
5. Jothi
6. Pushpa
7. Vijaya

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.85 of 2017 in O.S.No.74 of 2013, dated 11.04.2017, on the file of III Additional District Judge, Salem.

For Petitioner : Mr.A.V.Arun

For Respondents : No Appearance

ORDER

The first defendant in O.S. No. 74 of 2013 on the file of the learned III Additional District Judge, Salem is the revision petitioner herein.

2. The plaintiff/first respondent in this civil revision has filed the suit for specific performance of the agreements dated 20.09.2010, 18.10.2010 and 16.03.2011 and sale agreement extension dated 17.06.2011 executed by the defendants in respect of the suit property, to execute the sale deed in his favour by receiving the balance amount, to grant permanent injunction restraining the defendants from alienating the suit property; alternatively to direct the defendants to repay the sum of Rs.13,40,000/- received towards sale advance with interest at the rate of 12% per annum.



3. Pending suit, the defendants have filed the instant application by contending that Ex.P1 to Ex.P4 marked on the side of the plaintiff are not admissible in evidence. It is stated that Ex.A1 to Ex.A4 are unregistered documents and therefore, they ought not to have been marked. Therefore, the instant application has been filed to declare that Ex.A1 to Ex.A4 are inadmissible in evidence.

4. After perusing the records, the Trial Court dismissed the said application on the ground that all the four documents have been marked subject to objection and the relevancy or admissibility of those documents can be decided at the time of trial. Further, as per amendments made to the Registration Act, documents which have come into existence after 2012 are required to be registered mandatory. In this case, Ex.A1 to Ex.A4 are documents which has come into existence before 2012 and therefore, the admissibility of those documents can be gone into at the time of trial. Assailing the order passed by the Trial Court, the present revision has been filed.

5. The learned counsel for the petitioner would vehemently contend that Ex.A1 to Ex.A4 are unregistered documents and they are not properly and sufficiently stamped. While so, reliance cannot be placed on those documents by the plaintiff to prove their case. The Trial Court without appreciation of the above fact has erroneously dismissed the application and it warrants interference of this Court.

6. On the above contention, the learned counsel for the plaintiff/ first respondent would contend that the reliability or admissibility of the documents marked will be gone into at the time of trial. Merely because the documents have been marked by the trial court, will not ipso facto give rise to a cause for the defendants to file the present revision petition and therefore he prayed for dismissal of the civil revision petition.

7. Heard both sides and perused the materials placed on record. It is an admitted fact that Ex.A1 to Ex.A4 are not registered documents but they are unregistered documents. Notwithstanding the same, the documents have been marked by the trial court. A perusal of the records would reveal that on the date when the documents were marked by the trial court, the learned counsel for the defendants was absent and therefore, those documents have been marked subject to their reliability and admissibility during the course of trial. In effect, the relevancy or admissibility of those documents will be gone into at the time of trial. This was also clearly pointed out by the Trial Court in the order which is impugned in this revision.



8. In fact, the learned counsel for the petitioner relied on the decision of the Honourable Supreme Court in the case of Bipin Shantilal Panchal vs. State of Gujarat and another reported in (2001) 3 Supreme Court Cases 1. However, this decision finds support of the conclusions reached by the trial court and against the case pleaded by the petitioner. In that case, the Honourable Supreme court has categorically held that "whenever an objection is raised during evidence-taking stage regarding the admissibility of any material or item of oral evidence, the trial court can make note of such objection and mark the objected document tentatively as an exhibit in the case subject to such objections to be decided at the last stage in the final judgment." As per the aforesaid decision of the Honourable Supreme Court, the trial court rightly dismissed the application of the defendants and refused to declare that Exs. A1 to A4 are inadmissible in evidence. Therefore, this Court does not find any reason to interfere with the order passed by the Trial Court.

9. Accordingly, the Civil Revision Petition is dismissed. No costs.

Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Additional District Judge - III,  
Salem.
2. The Section Officer,  
V.R.Section, High Court, Madras.

+1cc to M/s.A.V.Arun, Advocate, S.R.No.6709

C.R.P.No.2895 of 2017

PMK(CO)  
RLP(20/04/2022)