



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) Nos.477 & 481 of 2020
and
C.M.P. (MD) No.2949 of 2020

Kosalai .. Petitioner in both C.R.Ps.
-vs-

Kaliammal (Died)

1.Rashmi Textiles,
Though its Managing Partner,
13/2, Mylaboor Chandrabag Avenue,
Chennai.

2.C.Ravindran

3.Rashmi

4.Minor Susma

5.Minor Durga

[Minor respondents 4 and 5 are represented through
their father and guardian 2nd respondent]

6.S.Sundaram

7.M/s.Revathi Agro Private Ltd.,
Through its Managing Director,
Door No.3-6-612, 3rd Floor,
Himayat Nagar Cross Road,
Himayat Nagar, Hyderabad.

8.Gopalsamy

9.Irulappasamy

10.Ponnusamy Thevar

11.Kannithai

12.Perumalsamy

.. Respondents in both C.R.Ps.

Prayer :- Petitions filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 04.01.2020 made in I.A.Nos.840 and 839 of 2019 respectively in O.S.No.30 of 2011 on the file of the District Munsif, Kovilpatti.



For Petitioner : Mr.S.Kadarkarai

For R7 : No appearance

RR1 to 6 & 8 to 12: Given up

COMMON ORDER

(Heard through Video Conferencing)

The plaintiff is before this Court challenging the order, dated 04.01.2020, dismissing her applications in I.A.Nos.840 and 839 of 2019 seeking to reopen the evidence of the plaintiff and to re-call P.W.1 in order to mark documents respectively.

2.Without going into the intricate details of the proceedings, the relevant facts alone are being culled out hereinbelow:-

2.1.The plaintiff had filed the suit in O.S.No.30 of 2011 on the file of the District Munsif, Kovilpatti, for the following reliefs:-

"(a) Declaring that the schedule properties belong to this Plaintiff and to pass an order of Permanent Injunction restraining the defendants their men agents and servants etc., from interesting with the possession of the schedule property by this plaintiff. (Amended as per order in I.A.No.571 of 2016 dated 20.03.2017)

(b) Declaring that the sale deed executed by the first defendant with respect to schedule properties and registered as document number 3117/99 and the sale deed executed by the second defendant in favour of 8th defendant and registered as document number 599/2008 in the office of the Sub Registrar, Kovilpatti with respect to schedule properties are null and void.

(c) Directing the defendants to pay the cost of this suit to this plaintiff."

3.The plaintiff, claims a right through one Ayammal from whom, the plaintiff has purchased the property under a Sale Deed dated 24.05.2007. This Sale Deed has been executed by the Power Agent of Ayammal one Kumarasamy. The plaintiff would submit that the defendants are asserting a non-existent right over the property. Since the title of the plaintiff had been questioned and a Sale Deed had been executed in favour of the 1st defendant and the 8th defendant, the plaintiff has also sought for a declaration. The 8th defendant had filed their counter denying the claim of the plaintiff



to the suit property contending that the documents referred to by the plaintiff are concocted ones. They would submit that they have been in enjoyment and possession of the property from the time of their purchase, which was from the lawful owner. The 8th defendant had questioned the Court fee paid and has also raised the plea of limitation. After evidence had been completed and when the matter was posted for the reply arguments of the 8th defendant, the plaintiff had come forward with the impugned applications.

4. In the affidavit filed in support of the said applications, the plaintiff would contend that she had come across certain documents only now and therefore, there was a necessity to reopen and recall the evidence. The 8th defendant had objected to the said applications stating that the same are highly belated. The 8th defendant had also stated that the plaintiff had not mentioned as to what are the documents that she had now come across and how they were relevant to the case on hand. They would contend that the plaintiff was only attempting to fill up the lacunae by recalling the witness. The learned Judge after hearing the parties had dismissed the two applications. Challenging the same, the petitioner is before this Court.

5. Heard Mr. Kadarkarai, learned counsel for the petitioner.

6. The plaintiff has come forward with the two applications on the ground that certain documents had to be marked. However, no application has been filed for receiving the documents. The plaintiff has already marked Ex.A1 to Ex.A16. The documents that the plaintiff now proposes to mark have not been filed into Court. Without filing the documents into the Court, the plaintiff cannot seek to reopen the evidence and recall the witness. The provisions of Order VII Rule 14(3) of the Civil Procedure Code stipulate that where documents have not been filed at the time of presentation of the plaint or entered into the list to be added or annexed to the plaint, such documents can be received only at the hearing of the suit only with the leave of the Court. Order VII Rule 14(3) reads as follows:-

"Order VII Rule 14(3) CPC:-

A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received in evidence on his behalf at the hearing of the suit."

7. In the instant case, no such petition has been moved by the plaintiff. Without filing the petition, reopening the evidence or recalling the witness would be an empty formality. In these circumstances, I do not find any reason to interfere with the common order of the Court below and accordingly, the order dated



04.01.2020 made in I.A.Nos.839 and 840 of 2019 in O.S.No.30 of 2011 is confirmed. Consequently, the Civil Revision Petitions stand dismissed. No costs. Connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The District Munsif, Kovilpatti.

C.R.P.(PD) (MD) Nos.477 & 481 of 2020

Dated: 06.01.2022

nsn(CO)

TR(09.02.2022) 4P 2C