



CRP(PD)(MD)No.1593 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1593 of 2022
and CMP(MD)No.6834 of 2022

J.T.M.Jhaya Huxer

... Petitioner

versus

Indira

... Respondent

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.04.2022 made in I.A.No.4 of 2022 in O.S.No.221 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Thirupuvanam.

For Petitioner : M/s.F.X.Eugene

ORDER

This Civil Revision Petition is filed against the order dated 26.04.2022 made in I.A.No.4 of 2022 in O.S.No.221 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Thirupuvanam.



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2. The petitioner herein is the defendant in the suit in O.S.No. 221 of 2019. The said suit was filed by the plaintiff/respondent herein for bare injunction. In the said suit, the defendant/petitioner herein filed the written statement claiming title over the property based on two sale deeds, namely, document No.2775/1960 dated 12.10.1960 and Document No.847/1966 dated 27.06.1966 executed by one Oorkavalan and one Kaliammal. The plaintiff/respondent herein filed an interlocutory application in I.A.No.4 of 2022 stating that the signatures found in the documents may not be genuine one and therefore, the signatures found in the documents, relied on by the defendant/petitioner herein as Document No.2775/1960 dated 12.10.1960 and No.847/1966 dated 27.06.1966, have to be compared with the admitted signatures and therefore, she sought for a direction to the defendant/petitioner to produce the Document No.2775/1960 dated 12.10.1960 and No.847/1966 dated 27.06.1966. The Trial Court, by order dated 26.04.2022, directed the defendant/petitioner herein to produce those documents. Aggrieved over the same, the present Civil



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Revision Petition is filed.

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3. The learned counsel appearing for the petitioner submits that the order passed by the trial Court is an inexecutable one. The documents dated 12.10.1960 and 27.06.1966 are public documents and therefore, it need not be proved as claimed by the respondent. One Kaliasammal, wife of Veeranan Ambalam, purchased 48 cents in Survey No.96/9 from one Oorkavalan Ambalam in the year 1960 by Document No.2775/1960 and sold the same to Aditanar Educational Institution in the year 1966 by Document No.847/1966 and thereafter, through the power agent of Chairman of Aditanar Educational Institution, the petitioner has purchased the property on 18.04.1994. The petitioner has also marked the certificate copies of document No.2775/1966 dated 12.10.1960 and document No.847/1966 dated 27.06.1966 in I.A.No.84 of 2019. Further, the respondent/plaintiff's father is a witness to the document No.847/1966. Without considering the said fact, the trial Court has allowed the application. Therefore, the order passed by the



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trial Court cannot be executable and it may also lead to adverse inference against the petitioner.

4. This Court considered the submissions of the learned counsel for the petitioner and also perused the orders passed by the trial Court.

5. By fair and decretal order dated 26.04.2022 in I.A.No.4 of 2022, the trial Court directed the petitioner to produce the original registered documents dated 12.10.1960 and 27.06.1966 on or before 03.06.2022. The petitioner claims that the documents are not available with him and therefore, the order is inexecutable. However, the documents are public documents registered in Sub Registrar Office in the year 1960 and 1966 and the certified copies of those documents have also been marked in I.A.No.84 of 2019. When it is the specific case of the petitioner that the documents are not available with him, he has not pleaded so in the counter affidavit as well as before the Court while deciding this application. Therefore, the trial Court has passed



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the above order.

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6. In view of the above, the fair and decreetal order dated 26.04.2022 passed in I.A.No.4 of 2022 is hereby set aside and the matter is remitted back to the trial Court for fresh consideration. The petitioner/defendant is at liberty to file an additional counter affidavit. The trial Court shall dispose of I.A.No.4 of 2022 in O.S.No.221 of 2019 afresh, based on the specific stand taken by the petitioner/defendant. In the interest of justice, the trial Court shall also find out the possibility of calling for the original documents from Revenue Department, by invoking Rule 75 of Civil Rules of Practice. No costs. Consequently, connected miscellaneous petition is closed.

03.08.2022

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Internet: Yes / No.
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B.PUGALENDHI, J.

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To

The District Munsif cum Judicial Magistrate Court,
Thirupuvanam.

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