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CRP.No.527 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.527 of 2023 and

CMP.No.4291 of 2023

S.Niranjani

... Petitioner

Vs.

P.Elango

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records, set aside the order passed in IA.No.3 of 2022 in OS.No.6234 of 2019 on the file of XV Additional City Civil Court at Chennai dated 18.11.2022 and consequently direct the trial court to permit the petitioner to produce the documents mentioned in the above petition.

For Petitioner : Mr.C.Deivasigamani

For Respondent : No appearance

ORDER

Challenging the impugned order dated 18.11.2022 passed in IA.No.3 of 2022 in OS.No.6234 of 2019 on the file of XV Additional City Civil Court at Chennai, the second defendant preferred this revision.



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Though name of the respondent is printed in the cause list, there is no representation on behalf of him.

3. Before the trial court in OS.No.6234 of 2019 on the file of the XV Additional City Civil Court, Chennai, the second defendant filed application to receive additional document as described in the petition affidavit by invoking Order 8 Rule 1(2) of CPC r/w Section 151 of CPC. The said application was objected by the plaintiff stating that the witness who signed as witness in the mortgage deed are not relevant to the issue and second defendant attempted to drag on the proceedings by filing this application and the reason assigned by her for non production of the same at earlier stage also not acceptable. Considering both the submissions, the trial Judge held that even at the time of filing of the written statement, she ought to have filed the document, but without applying due diligence, now during the trial proceedings, she filed this application to receive the document, as such is not acceptable. Accordingly, the application was dismissed. Challenging the same, the present revision has been preferred.



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4. The learned counsel for the petitioner submits that as per the defence before the trial court she has not went to Registrar Office and signed as witness in the document. Further, the mother of the said defendant not obtained loan for mortgaging the property and the alleged mortgage deed also fabricated one. So to prove the same, she wants to produce the additional documents which are more relevant to prove her claim, namely sale deed of the year 1993, death certificate of Jayalakshmi and other sale deed represented by her mother as guardian of the year 1992, legal heir certificate and TC, certified copy of the mortgage deed, death certificate of father in law-Ramakrishnan. All were public documents pertaining from the year 1993 onwards. Considering the defence taken by the second defendant, if opportunity not given to mark these documents on their side, the valuable defence taken by them could be defeated. The main objection on the side of the second defendant is that on the date of registration of the document, she was not went to Registrar Office since father in law was passed away on that day. Therefore, additional documents relied by the defendants are vital document to prove her defence and if not permitted to receive those documents and adduce on her side, their valuable right will be defeated.



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5. Further, opportunity is given to the plaintiff to raise objection with regard to marking of the documents. However, the trial Judge is directed to give the validity of the documents only at the time of disposal of the suit. Accordingly, the findings of the trial Judge in IA.No.3 of 2022 is set aside and IA.No.3 of 2022 is allowed. The second defendant is allowed to produce the documents before the trial court as per the manner known to law. The trial Judge is also directed to dispose of the main suit within a period of five months from the date of receipt of this order.

6. With the above directions, this civil revision petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.04.2023

Index : Yes/No
Internet : Yes/No
Speaking order/non-speaking order
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T.V.THAMILSELVI, J.

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To

XV Additional City Civil Court at Chennai

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