



CRP No.1322 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.11.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.1322 of 2023
and
CMP.No.8886 of 2023

1.K.Babu
2.B.Sumathi

... Petitioners

Versus

V.Tamilarasi

... Respondent

Civil Revision Petition filed Under Section 227 of Constitution of India, praying to set aside the order dated 15.02.2023 passed by the XIX Assistant City Civil Court, Chennai in I.A.No.6 of 2023, in O.S.No.4011 of 2022.

For Petitioners : Mr. N.Ganesh

For Respondent : Mr. P.Sidharthan

ORDER

The petitioners have filed this petition to set aside the order dated 15.02.2023 passed by the XIX Assistant City Civil Court, Chennai in I.A.No.6 of 2023, in O.S.No.4011 of 2022.



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2. Heard, Mr. N.Ganesh, learned counsel for the petitioners, Mr. P.Sidharthan, learned counsel appearing for the respondent and perused the materials available on record.

3. Before the trial Court, the respondent / plaintiff has filed a suit for mandatory injunction and other consequential reliefs. On pending of the suit the defendant has filed an I.A.No.6 of 2023 in O.S.No.4011 of 2022, under Order XI Rule 14 of CPC, to order plaintiff to produce patta and building sketch, submitted by the Tamil Nadu Slum Clearance Board. The said application was dismissed by the learned trial Judge stating that the petitioners have not stated about the relevancy of the documents sought to be produced and accordingly dismissed the application. Aggrieved the same the petitioners have filed this Civil Revision Petition.

4. The learned counsel for the revision petitioners submitted that both are neighbors and to prove the plaintiff's claim, they want to produce the patta in order to prove the extent of the property , belongs to the plaintiff. But it was not produced the same, during the trial, hence necessity arose for him to file application, but the same was not appreciated by the learned trial Judge.



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5. The learned counsel for the respondent / plaintiff submitted that the plaintiff is holding the 'thoraiya patta' and she ready to produce the same before the trial Court. But in respect of building sketch she is not having that document. If the document is not available with the party it can not be compelled. It is settled proportion of law.

6. Considering the facts and circumstances, and the submission made by both side counsels, in respect of the patta, she wants to produce before the Court, therefore, the defendants are entitled to cross examine the plaintiff to that effect before the trial Court. If opportunity has not given to the parties they will be put to much hardship. Hence, this Court is inclined to set aside the findings rendered by the learned trial Judge in I.A.No.6 of 2023, in O.S.No.4011 of 2022.

7. However, both the parties are directed to co-operate for the proceedings and the same can be closed within a period of four months from the date of receipt of a copy of this Order.

T.V.THAMILSELVI, J.



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WEB COPY 8. Accordingly, this Civil Revision petition is Allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

16.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No

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To

1. The XIX Assistant City Civil Judge, Chennai.
- 2.The Section Officer,
VR-Section, High Court of Madras.

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