



C.R.P.No.1178 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.1178 of 2021 &
C.M.P.No.9051 of 2021

D.Rajamani

... Petitioner

Vs.

P.Ramakannan

... Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 18.02.2021 made in I.A.No.2 of 2021 in O.S.No.105 of 2019 on the file of the Subordinate Court, Mettupalayam.

For Petitioner : Mr.K.S.Karthik Raja

For Respondent : No appearance

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decreetal order dated 18.02.2021 made in I.A.No.2 of 2021 in O.S.No.105 of 2019 on the file of the Subordinate Court, Mettupalayam.



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2. The brief facts of the case are as follows:-

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The petitioner is the plaintiff and the respondent is the defendant in O.S.No.105 of 2019. The said suit has been filed to direct the respondent / defendant to vacate the suit property and to deliver the vacant possession of the suit property to the petitioner / plaintiff and to put the petitioner in possession of the suit property and to further direct the respondent to pay a sum of Rs.12,000/- towards damages for one year at the rate of Rs.1,000/- p.m., and direct to pay future damages at the rate of Rs.1,000/- p.m. to the petitioner. Resisting the same, written statement has been filed by the respondent / defendant. Pending suit, I.A.No.2 of 2021 was filed by the petitioner / plaintiff to permit the petitioner to produce the original property tax receipt in the name of the petitioner. Opposing the same, a counter statement was filed by the respondent / defendant. Considering the pleadings and counter pleadings, the court below dismissed the said petition. As against the same, the petitioner has come forward with the present Revision.

2. The learned counsel for the petitioner would submit that the court below failed to see that the petition is only to receive the document and relevancy and admissibility of the same can be decided only at the time of



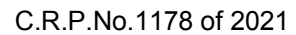
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marking the document. Further, the observation of the court below is that the document sought to be produced is after the suit and such a finding cannot be rendered at the stage of production of the document and the same can be dealt with only at the time of marking. Hence sought to allow the petition.

3. Though notice to the sole respondent was served through lower court counsel, Mr.P.Rajendran on 23.06.2021 and privately on 18.06.2021, there is no representation on behalf of the respondent and hence the name of the respondent was ordered to be printed in the cause list on 19.07.2021 and accordingly, the name of the respondent was also printed, however, there is no representation on the side of the respondent either through counsel or in-person.

4. Heard the learned counsel for the petitioner and perused the documents placed on record.

5. On going through the provisions under Order 7 Rule 14 Civil Procedure Code, it is clear that a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the



6. Now applying the said principle in the case in our hands, it is necessary for the petitioner / plaintiff to prove that she has genuine case. In regard, on going through the details of document, which was produced with the application filed by the petitioner before the trial Court, it is that the document is relevant to the suit schedule property, In the other affidavit filed by the respondent/defendant, he had denied the coming of the said document and not proved that the said document is relevant to the suit schedule property.



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7. In the above said circumstances, it is necessary to see whether the said document is relevant to the case of the petitioner or not. In this regard, the petitioner / plaintiff contends that the respondent / defendant is in permissive possession of the suit property and on the other hand, the respondent / defendant claims that he is the purchaser of the suit property by way of an unregistered sale deed in the year 2003. So according to the said averment, the respondent/ defendant had denied petitioner/ plaintiff's possession in respect of the suit property. So for proving the petitioner/ plaintiff's case, it is necessary for the petitioner to prove the ownership of the suit schedule property. Since the document now enclosed along with the application, is only in respect to the possession of the suit property, it cannot be said that the petitioner has nothing to do with the cause of action for the present suit.

8. Further, it cannot be said that there is no pleading set out in the plaint in respect of the document now produced by the petitioner. Being the plaintiff, the petitioner has to prove the possession of the suit property and this Court is of the view that the petitioner has approached the Court below with genuine reason. Hence the attempt made by the petitioner to prove the possession of the suit property, does not mean that she tried to fill the lacuna in her case.



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9. On a perusal of the impugned order it is seen that the court below

has categorically stated that the said document is created subsequent to the suit and it cannot be received. Further, the court below observed that the petitioner / plaintiff failed to produce the original tax receipt listed in the plaint document and the petitioner is introducing a new document, which had nothing to do with the cause of action for the present suit. In general, if any document is produced before the completion of trial, the same has to be received, but can be marked subject to the proof and relevancy. If either party have any objections with respect to the said document, they can raise their objection at the time of marking the said document as exhibit. But in the present case, the petitioner filed an application only to produce the document.

10. In view of the above discussions, this Court is of the view that since the application has been filed before closing both side evidence, it cannot be said that the petitioner attempted to prolong the proceedings by way of filing the application and inclined to set aside the order dated 18.02.2021 in I.A.No.2 of 2021 in O.S.No.105 of 2019, passed by the learned Subordinate Judge, Mettupalayam.



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In the result, the present Civil Revision Petition is allowed and the document shall be received, however, the said document can be marked only subject to proof and relevancy. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
ssd

To
The Subordinate Court,
Mettupalayam.



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V.BHAVANI SUBBAROYAN, J.,

ssd

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