



CRP.No. 2143 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HON'BLE JUSTICE MRS.V. BHAVANI SUBBAROYAN

CRP. No. 2143 of 2021

and

CMP. No. 16231 of 2021

Saint Ludhurs Church

... Petitioner

Versus

1. Karuppasamy
2. Avinashiappan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 19.11.2018 made in I.A.No. 1542 of 2018 in O.S. No. 224 of 2010 on the file of the District Musif, Avinashi.

For Petitioner : Mr.S. Mukunth

For Respondents : Mr.K.Govi Ganesan

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and



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decretal order dated 19.11.2018 made in I.A.No. 1542 of 2018 in O.S.No. 224 of 2010 on the file of the District Musif, Avinashi.

2. The revision petitioner herein is the 4th defendant and the respondents herein are the plaintiffs in the original suit.

3. The case of the respondents/plaintiffs is that the respondents/plaintiffs filed a suit in O.S.No.224 of 2011 before the learned District Munsif, Avinashi, for declaration declaring that the plaintiffs are the absolute owners of the suit properties and consequential permanent injunction restraining the defendants from in any way interfering with the plaintiffs peaceful possession and enjoyment of the suit properties. The 4th defendant has filed written statement and denied all the averments made in the plaint. During the pendency of the suit proceedings, the revision petitioner/4th defendant filed I.A.No.1542 of 2018 under Order VIII Rule 3A of CPC, seeks to condone the delay in producing the petition mentioned documents. After perusing the records, the trial Court dismissed the application by order dated 19.11.2018 on the ground that the documents are not in any way relates to the suit property, no pleadings about the documents mentioned in the



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petition and the said documents have not been produced in time. Aggrieved by the said order, the Civil Revision Petition is filed.

4. The learned counsel appearing for the revision petitioner contended that the copies of the original documents can be marked as secondary evidence under Section 63 of the Indian Evidence Act, ought to have received and marked the two documents which are copies of the original. He further submitted that the fact that the copies sought to be marked are reproduced through mechanical process and falls under the ambit of Section 63 of the Indian Evidence Act, concerning secondary evidence. He further submitted that the trial Court has failed to consider the fact that the documents sought to be marked would be of relevance to prove the petitioner's title and possession over the suit schedule and the trial Court ought not to have held that the documents sought to be marked are not of any relevance to the suit schedule property. Hence, the findings of the trial Court are set aside.

5. On the contrary, the learned counsel appearing for the respondents/plaintiffs submitted that the allegations in Para No.3 of the affidavit



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that the title deeds were kept in the custody and the petitioner was not able to produce the said documents in time. He further submitted that there is no pleadings about the said documents mentioned in the petition and the documents produced along with the petition are not in any way relating to the suit property. He further submitted that the reasons mentioned in the affidavit to condone the delay in producing the documents is legally unsustainable one. Therefore, the above civil revision petition has to be dismissed.

6. On perusal of the impugned order dated 19.11.2018, it is seen that the suit was filed by the respondents/plaintiffs for declaring that the plaintiffs are the absolute owners of the suit properties and consequential permanent injunction restraining the defendants from in any way interfering with the plaintiffs peaceful possession and enjoyment of the suit properties. It further reveals that the revision petitioner obtaining a xerox copy of the parent documents as well as getting signatures from one Notary Public and the same were produced before the Court below and hence, the said documents have not accepted as primary evidence under Section 62 of the Indian Evidence Act. Whereas, there is no mentioned about the said documents in the plaint by obtaining xerox copy of the parent documents as



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well as signatures from the Competent Authority under Section 63 of the Indian Evidence Act, the same was not accepted as secondary evidence under Section 63 of the Indian Evidence Act. However, it is not stated in the petition as well as in the plaint about the parent documents and the said documents were not produced by the revision petitioner in time before the Court below and the same cannot be accepted. Therefore, the contention of the revision petitioner is not accepted.

7. Taking into the aforesaid facts and circumstances of the case and the suit is of the year 2011, the revision petitioner is directed to produce the original documents in respect of subject properties and raise all the points before the Court below. After receiving the original documents, the Court below is directed to proceed further in the manner known to law.

8. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order : Yes/No

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Neutral Citation : Yes/No

msm

To

1. The District Musif, Avinashi.
2. The Section Officer, V.R.Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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