



C.R.P.(MD).No.1504 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.1504 of 2018

and

C.M.P(MD) No.6538 of 2018

Muthaiah

... Civil Revision Petitioner/
Petitioner/Appellant

-vs-

Kannan

... Respondent/Respondent/
Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.70 of 2017 in A.S.No.09 of 2015 on the file of the Additional District Judge, Pudukkottai, dated 26.06.2018.

For Petitioner : Mr.P.R.Boome Rajan

For Respondent : Mr.D.Ramesh Kumar

ORDER

The instant Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the fair and decreetal



C.R.P.(MD).No.1504 of 2018

WEB COPY

order passed in I.A.No.70 of 2017 in A.S.No.09 of 2015 on the file of the Additional District Judge, Pudukkottai, dated 26.06.2018.

2. The short facts which give rise to the instant Civil Revision Petition are that the petitioner is the plaintiff before the trial Court. He filed a suit in O.S.No.45 of 2013 for the relief of declaration, on the ground that the property was settled by his father Mr.Vellaisamy, who purchased the property from one Karuppan Chettiar. The plaintiff further stated in the plaint that taking advantage of the defendant's father being a Karnam made some alteration in the revenue records and as such, claimed title over the property. Therefore, he filed a suit for declaration and injunction.

3. The trial Court after elaborately discussing all the aspects has dismissed the suit for declaration. Against which, it appears that the plaintiff has filed appeal in A.S.No.9 of 2015. While so, when the appeal was pending, the plaintiff/petitioner has come forward with an application in I.A.No.70 of 2017 to receive the additional document namely, the suit register extract in O.S.No.116 of 1961, dated 29.03.1961.



C.R.P.(MD).No.1504 of 2018

WEB COPY

4. The learned trial Judge, after going to the merits of the matter, found that the very application was filed belatedly and ultimately, dismissed the application.

5. Aggrieved by the order of the appellate Court, the petitioner has come up with the instant revision petition. In order to decide the instant revision petition, it is very much relevant to extract the pleadings of the affidavit filed by the petitioner in I.A.No.70 of 2017 para No.2 reads as follows:

“ 2. I humbly submit that the suit filed by the plaintiff for declaration and injunction is based on the original suit in O.S.No.116 of 1961 on the file of the Hon'ble District Munsif, Pudukottai. To substantiate my case it has become necessary to file additional document on my side for proper adjudication of the case. The document now I rely upon is the certified copy of the above referred suit, which is required to prove my case on its face. Unless the additional document detailed in the accompanying petition is received and marked on the appellant side I will be serious prejudiced.”



C.R.P.(MD).No.1504 of 2018

As per the above pleadings, no ingredients could be found as stipulated in Order 41 Rule 27 of the C.P.C.

6. For ready reference Order 41 Rule 27 of C.P.C is extracted hereunder:

“(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the appellate Court. But if-

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

[(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]

(b) The Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the appellate Court may allow such evidence or document to be produced, or witness to be examined.



C.R.P.(MD).No.1504 of 2018

(2) Wherever additional evidence is allowed to be produced by an appellate Court the Court shall record the reason for its admission.

7. But, in this case, the ground alleged by the petitioner is that they need to file the additional documents only to substantiate the case, but, he has not put forth any of the grounds raised under Order 41 Rule 27 of C.P.C. Therefore, this Court is of the opinion that the instant Civil Revision Petition do not deserve any affirmative orders from this Court as the order of the trial Court is well considered.

8. In the result, this Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

11.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi



C.R.P.(MD).No.1504 of 2018

WEB COPY

To
1. The Additional District Judge,
Pudukkottai.



WEB COPY



C.R.P.(MD).No.1504 of 2018

C.KUMARAPPAN,J.

ebsi

C.R.P(NPD)(MD)No.1504 of 2018

11.07.2023