



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.04.2023
Pronounced on : 21.06.2023

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.R.P(PD) (MD) .No.1578 of 2018
and
C.M.P(MD)No.6919 of 2018

P.Velusamy ... Petitioner/Petitioner/2nd Defendant

Vs.

Idol Sri Arulmighu Kalyana Pasupatheeswaraswamy,
Arulmighu Kalyana Pasupatheeswaraswamy
Devasthanam, Karur
represented by its
Executive Officer. ... Respondent/ 1st Respondent / Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the petition order dated 20.03.2018 in I.A.No.318 of 2017 in O.S.No.103 of 2016 on the file of the Principal District Court, Karur.

For Petitioner : Mr.K.Govindarajan
For Respondent : Mr.G.Sridharan

ORDER

This Civil Revision Petition is filed against the order dated 20.03.2018 passed in I.A.No.318 of 2017 in O.S.No.103 of 2016 on the file of the Principal District Court, Karur.

2. The brief facts of the case:

The revision petitioner is the 2nd defendant in O.S.No.103 of 2016 on the file of the Principal District Court, Karur. The revision respondent is the plaintiff in the said suit seeking the relief of declaration that the plaintiff Idol is the absolute owner of the suit property and recovery of possession against the defendants 1 to 5. Pending suit, the revision petitioner/2nd defendant has filed an interlocutory application in I.A.No.318 of 2017 in O.S.No.103 of 2016 under Order 7 Rule 11 of Civil Procedure Code for rejection of plaint in O.S.No.103 of 2016. When the petition was pending for enquiry, the revision



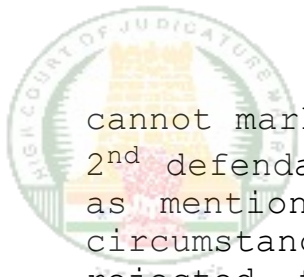
petitioner/2nd defendant wanted to mark certain documents on his side. The respondent/plaintiff resisted for marking of the revision petitioner/2nd defendant side documents stating that for considering the petition for rejection of plaint, the plaint averments and the plaint mentioned documents can alone be considered. After hearing both, the Trial Court has passed the impugned order that the revision petitioner/2nd defendant cannot be permitted to mark his side documents in the petition filed under Order 7 Rule 11 of Civil Procedure Code. Aggrieved by the order of the Trial Court, the revision petitioners/2nd defendant moved this Court by way of this Civil Revision Petition.

3. Heard both side and perused the records in this Civil Revision Petition.

4. The learned counsel appearing for the revision petitioner has placed his arguments that the Trial Court has to accept the documents wanted to be marked by a party to the suit in the petition filed by him and that the Trial Court cannot prevent any party from placing documents. The Trial Court ought to have received the documents placed by the revision petitioner and then it has to take decision upon the document. Without permitting the revision petitioner's request, the Trial Court has rejected the request for marking documents. Hence, the order may be set aside and this Civil Revision Petition may be allowed.

5. Per contra, the learned counsel for the respondent has vehemently argued that the revision petitioner/2nd defendant has filed petition under Order 7 Rule 11 of Civil Procedure Code for rejection plaint, if so, the plaint averments and the plaintiff side documents alone have to be taken into consideration. The defendant is not entitled to mark his side documents. Hence, the Trial Court has correctly analysed the facts of the case and correctly passed the impugned order and the same need not be set aside. In support of his arguments, the learned counsel for the respondent has relied on the decision of this court in the case of **R.K.Roja Vs. U.S.Rayudu and another** reported in **2016-4 CTC 544**.

6. On hearing both and on perusal of records, it is clear that the revision petitioner is the 2nd defendant in the suit in O.S.No.103 of 2016 on the file of the Principal District Court, Karur. Admittedly, prior to filing written statement, the revision petitioner has filed a petition under Order 7 Rule 11 of Civil Procedure Code for rejection of plaint. It is well settled principle of law by the Hon'ble Supreme Court that for considering the application for rejection of plaint, averments made in the plaint and the documents mentioned therein alone has to be taken into consideration for deciding the said petition. The defendant



cannot mark his side documents. The revision petitioner k^{2nd} defendant has not stated that he wanted to mark the documents as mentioned in the plaint averments. From the the facts and circumstances of the case on hand, the Trial Court has correctly rejected the request of the defendant for marking his side documents in the petition for rejection of plaint, which warrants no interference by way of this Civil Revision Petition and thus, this Civil Revision Petition fails and the same is liable to be dismissed.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

vsd

To

1.The Principal District Judge,
Karur.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.G.SRIDHARAN, Advocate SR.No.29520

+1 CC to Mr.K.GOVINDARAJAN, Advocate SR.No.29953

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