



C.R.P.(PD).No.894 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.894 of 2019
and C.M.P.No.5803 of 2019

V.Vajjiravelu

... Petitioner

VS

1.Rani

2.Gowri

3.K.Baskar

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 18.04.2018 made in I.A.No.14920 of 2017 partly dismissing in O.S.No.93 of 2016 on the file of IV Additional City Civil Court, Chennai and allow the Civil Revision Petition.

For Petitioner : Mr.K.S.Madhavan

For R1 and R2 : Mr.M.Ravi Bharathi

For R3 : Batta Due



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Trial Court negating the prayer of the petitioner to condone the delay in filing of certain documents.

2. The petitioner herein is the 2nd defendant in a suit for partition filed by the respondents 1 and 2. When the suit was posted for examination of defendants' side witnesses, the petitioner/2nd defendant filed instant application seeking to condone the delay in filing 8 documents, which were not produced along with his written statement.

3. The Trial Court having satisfied with the reasons assigned by the petitioner, partly allowed the application in respect of Document Nos.4 to 8 produced by the petitioner. As far as Document Nos.1 to 3 are concerned, the petition was dismissed. Aggrieved by the dismissal of the petition in respect of Documents Nos.1 to 3, the petitioner is before this Court.



4. The learned counsel appearing for the petitioner submitted that

Documents Nos.1 and 2 are unregistered Partition Deed and the 3rd document is the xerox copy of the order passed by the Land Acquisition Tribunal in LAOP.No.137 of 1985, dated 20.01.1992. The learned counsel further submitted that it is settled law even unregistered Partition Deed can be marked for collateral purpose and overlooking the same, the Court below dismissed the application on the ground the unregistered Partition Deed cannot be admitted in evidence. As far as 3rd document is concerned, the learned counsel submitted that he is not pressing the application in respect of 3rd document. The said statement of the learned counsel for the petitioner is recorded.

5. It is settled law when an application is filed to condone the delay in filing certain documents, which were not filed along with pleadings of the parties, the Court is only concerned with the sufficiency of the reason given by the petitioner to condone the delay in filing documents. At that stage, the Court should not go to question of admissibility of documents, the same can be considered only when the documents are actually tendered in evidence.



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The said position was laid down by this Court in ***S.Mohammed Ali vs.***

Basheer Ahamed reported in ***2001 (2) CTC 391***.

6. The Court below by impugned order was satisfied with the reasons assigned by the petitioner for delay in filing documents. As far as admissibility of the Documents Nos.1 and 2/unregistered Partition Deeds are concerned, it is settled law even unregistered documents can be admitted in evidence for collateral purpose provided it is properly stamped. The said question can be gone into when the document is actually tendered by the party in evidence for the purpose of marking. Therefore, the order impugned in this revision is set aside as far as dismissal of the petition as regards Documents Nos.1 and 2 are concerned and the petitioners are permitted to produce Documents Nos.1 and 2 (i.e., unregistered Partition Deeds dated 06.11.1982 and 14.06.1991, subject to the proof, relevancy and admissibility. When the petitioner makes an attempt to mark the documents as exhibits, it is open to the respondents to make their objections regarding the admissibility. If any such objection raised by the respondents, the same shall be considered by the Court below on merits at the time of marking.



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7. With these clarifications, the Civil Revision Petition is disposed of.

No costs. Consequently, the connected civil miscellaneous petition is closed.

05.03.2024

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

To

The IV Additional City Civil Court,
Chennai.



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S.SOUNTHAR, J.

dm

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