



CRP No.4120 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.4120 of 2024
and CMP No.22593 of 2024

Elumalai

.. Petitioner

-VS-

1. Alamelu Ammal
2. Kanchana
3. Nagu

.. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the order dated 24.11.2023 passed in I.A.No.1 of 2023 in O.S.No.34 of 2017 on the file of District Munsif Court at Uthukottai.

For Petitioner : Mr.P.Rajendra Kumar

For Respondents : Mr.Prabhu for RR 2 and 3
: No appearance for R-1

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ORDER

This civil revision petition arises against the order passed by the learned District Munsif at Uthukottai in I.A.No.1 of 2023 in O.S.No.34 of 2017.

2. O.S.No.34 of 2017 is a suit seeking for recovery of possession of the suit schedule mentioned property. Written statement has been filed, issues have been framed and the matter is now listed for trial. At the stage of trial, the plaintiff, who is aged about 73 years, on account of the fact that he is having serious health issues, authorised his son to testify on his behalf. In addition, he took out an application under Order VII Rule 14(3) of the Code of Civil Procedure to mark a medical certificate dated 14.07.2023 regarding his medical condition.

3. The learned Judge received this application in I.A.No.1 of 2023 and ordered notice to the respondents. The respondents also filed a counter. Thereafter, the learned Judge took up the application for disposal and dismissed the said application by an order dated 24.11.2023. Hence, this revision.



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4. I have heard Mr.P.Rajendra Kumar for the civil revision petitioner and Mr.Prabhu for the respondents.

5. Mr.Rajendra Kumar states that on account of the fact that the plaintiff is facing health issues, he is not in a position to appear before the Court, hence, he had authorised his son to depose on his behalf. In order to substantiate the fact that he is suffering from medical condition, he wanted to produce the medical certificate dated 14.07.2023. He pleads that the dismissal of this petition is unfortunate and it requires to be revised.

6. Per contra, Mr.Prabhu argues that even taking the medical certificate on its face value, it only states that the plaintiff is suffering from "chronic diabetes" and "low blood pressure". These afflictions, according to him, cannot prevent a party from appearing before the Court. He adds that the certificate is irrelevant for the purpose of proving anything in the suit. It only, at best, substantiates the health issues of the plaintiff and hence, the order of the learned District Munsif requires confirmation.

7. I have carefully considered the submissions of both sides.



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8. Order VII Rule 14(3) of the Code of Civil Procedure has a corresponding provision under Order VIII Rule 1A(3). By the said provision, the plaintiff is entitled to produce documents at a later stage with the leave of the Court. This provision came in by way of an amendment from 01.07.2002. Prior to such amendment, there was a provision under Order XIII Rule 2, where a party was called upon to explain the delay in filing documents, which had not been presented along with the plaint. The Parliament, in its wisdom, decided to reduce the burden on parties and instead of explaining the delay, all that a party requires to do is to seek “leave of the Court to produce the documents”. Granting of leave does not have the same strenuous effect to explain the delay in filing the documents. When the Code has liberalised the procedure for production of documents substituting the provision for delay with a provision for leave, taking cue from the suggestion made by the Parliament, the Court should interpret the provision in liberal manner.

9. As to what is a document is defined under the Indian Evidence Act. It is not defined under the Code of Civil Procedure. Any document that is produced by a party, whether it is relevant to the case or not, is to be



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decided by the Court at the time at the time of disposal of the suit. For the purpose of trial, the party might produce a document which the Court might ultimately consider as irrelevant with respect to the claims made by the plaintiff or the defendant. That by itself does not bar a party from producing the documents. The Court does not provide any advisory opinion to the parties as to which documents are relevant or which documents are irrelevant at the time of their production during trial. Marshalling of evidence and the documents is done, as pointed out above, only when the Court finally pronounces the judgment in the suit.

10. Insofar as this case is concerned, the plaintiff has produced a medical certificate to show that the plaintiff is suffering from health conditions. Whether low blood pressure and chronic diabetes is a ground for exemption is not for the Court to decide. The age of the plaintiff is around 74. The afflictions mentioned in the medical report might not affect a person who is of young age, but it has adverse impact on the person who is advanced in age. Be that as it may, it is for the plaintiff to put forward whatever evidence that he wants to bring before the Court. The plaintiff has filed this document in order to obviate the plea that the defendants might



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take at a later date that the plaintiff has avoided the witness box and thereby, inviting the Court to draw an adverse inference against him. If the party gives a valid explanation as to why he is not present in Court and that explanation, if it is convincing to the Court, obviously adverse inference will not be drawn. The affidavit filed in support of I.A.No.1 of 2023 also states that the plaintiff has authorised his son to depose on his behalf.

11. The cumulative effect of the above discussion is that the plaintiff wants to produce the certificate in order to prevent the defendant from showing that he is avoiding the witness box. Hence, I feel that this document becomes relevant for the purpose of the plaintiff authorising his son to depose as P.W.1. Furthermore, in terms of Order 18 Rule 3A, which, as held by a Division Bench of this Court, is only directory, the son of the plaintiff can depose now and the plaintiff can always enter the witness box at a later date.

12. All these are matters which are within the realm of the litigative strategy that will have to be developed by the plaintiff. Suffice it to say, the order of the learned Judge holding that the medical certificate is irrelevant



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requires interference. Accordingly, it is set aside. I.A.No.1 of 2023 will stand allowed. P.W.1 will be entitled to mark the medical certificate dated 14.07.2023.

13. At this stage, Mr.Prabhu requests that the suit be disposed of at a early date. He undertakes to complete the cross-examination of the parties at the earliest without causing any delay on that score. Similar statement is made on behalf of the plaintiff. Considering the submission of both the counsels, the learned District Munsif at Uthukottai is requested to dispose of the suit on or before 31.07.2025. He shall submit a report to this Court after complying with the said order.

The civil revision petition is, accordingly, allowed. No costs. Consequently, C.M.P.No.22593 of 2024 is closed.

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Index : Yes/No
Neutral Citation : Yes/No

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V.LAKSHMINARAYANAN, J.

(sra)

To

The District Munsif,
Uthukottai.

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