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CRP.No.1150 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2024

**CORAM:
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

Civil Revision Petition No.1150 of 2023
and
Civil Miscellaneous Petition No.8009 of 2023

T.Ramakrishnan

...Petitioner/Petitioner/
Plaintiff

versus

1.S.Manoharan
2.Jothipriya

...Respondents/Respondents
/Defendants

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and final Order dated February 14, 2023 passed in I.A.No.2 of 2022 in O.S.No.146 of 2017 on the file of Additional District Munsif Court, Pollachi.

For Petitioner : M/s.L.Mouli

For Respondents : Mr.V.Nicholas

ORDER

This Civil Revision Petition has been directed against the Order dated February 14, 2023 passed in I.A.No.2 of 2022 in O.S.No. 146 of 2017 on the file of 'Additional District Munsif Court, Pollachi' [Trial



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Court' for brevity] under Order VII Rule 14 read with Section 151 of the 'Code of Civil Procedure, 1908' ['CPC' for brevity].

2. The revision petitioner herein is the plaintiff and the respondents herein are the defendants in the Original Suit. For the sake of convenience, hereinafter, they will be denoted as per their array in the Original Suit.

**3. Brief facts leading to the filing of this Civil Revision
Petition are as follows:**

3.1. The plaintiff filed the Suit for permanent injunction in O.S.No.146 of 2017 against the defendants praying to restrain them from interfering with the plaintiff's peaceful possession and enjoyment of the Suit Properties.

3.2. The Suit Properties are situated in old Natham Survey No.58/A1 and new Natham Survey No.1746/2 of Kootur Village. The Suit 'A' Schedule property is the main property while Suit 'B' Schedule property is a vacant land, 3 feet in width and 37 feet in length, running along the northern boundary of the Suit 'A' Schedule property in East-West direction.



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The plaintiff has been using the Suit 'B' Schedule property for maintenance of the northern side wall of Suit 'A' Schedule property as well as for passage of rain water. The Suit 'C' Schedule property is a pathway to access Suit 'A' Schedule property. The Suit Properties were originally possessed and enjoyed by the predecessors of the plaintiff and now they belong to the plaintiff absolutely.

3.3. In the year 2009, the defendants purchased the property adjacent to the northern side of the Suit 'B' Schedule property, and began construction of a new house after demolition of the old one thereon, during the month of January 2017. On May 01, 2017, with an ulterior motive to usurp the Suit 'B' Schedule property, the defendants attempted to encroach upon the same by putting up a compound wall thereon. Further, the defendants attempted to block the Suit 'C' Schedule property, which is a pathway to access Suit 'A' Schedule property, by obstructing the same with debris. Hence, the Suit.

3.4. In the said Suit, Trial has commenced and P.W.1 has filed Chief Affidavit and the case has been posted for Chief Examination. Meanwhile, the plaintiff filed an Interlocutory Application in I.A.No.02 of



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2022 under Order VII Rule 14 read with Section 151 of CPC, praying to grant leave to file additional document stating that the additional document, which is an Agreement Letter dated May 15, 2007 executed by the defendants' vendor in favour of the plaintiff, got mingled with other papers and hence, could not be filed along with the plaint.

3.5. Counter affidavit has been filed by the defendants in I.A.No.02 of 2022 stating that the document sought to be filed by the plaintiff was created for the purpose of this case, as an afterthought after filing the Original Suit. There is no plea with regard to the alleged document. Hence, the said document is hit under Section 17 of the Registration Act 1908. Accordingly, the defendants prayed in their counter to dismiss the petition.

3.6. The Trial Court after hearing both sides, concluded that the document was filed after ten years from the date of institution of Suit and there is no plea with regard to the alleged document and accordingly, dismissed the petition. Feeling aggrieved by the Order, the plaintiff has preferred this Civil Revision Petition.



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4. M/s.L.Mouli, learned Counsel appearing for the revision petitioner argues that the additional document sought to be marked is an agreement entered into between the plaintiff and the defendants' vendor with regard to the northern side wall, and it does not create any exclusive right or interest over the Suit Properties. Hence, it is not hit under Section 17 of the Registration Act 1908. Moreover, it is an voluntary agreement. The said document got mingled with other papers and hence, could not be filed along with the plaint. Further, the plaintiff is seeking only reception of the document vide I.A.No.02 of 2022 under Order VII Rule 14 of CPC. In such a Scenario, the Trial Court ought not to have dismissed the petition. Hence, he prays to allow the Civil Revision Petition.

5. Per contra, Mr.V.Nicholas, learned Counsel appearing for the respondents/defendants submits that there are no pleadings in the plaint with regard to the document sought to be filed. He further submits that the petition mentioned document is only an afterthought created with a view to defeat the legitimate rights of the defendants. He further submits that the plaintiff claims rights through the said document. Hence, the document is hit by Section 17 of the Registration Act, 1908. Accordingly, he prays to dismiss the Civil Revision Petition.



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6. This Court has considered both sides' submissions and

perused the materials on record.

7. The plaintiff has filed an affidavit in support of this Civil Revision Petition, wherein it has been stated that the additional document sought to be filed got mingled with other papers and hence, the plaintiff could not produce the same before the Trial Court along with the plaint. As rightly contended by the learned Counsel for the revision petitioner, the plaintiff seeks only reception of the said document under Order VII Rule 14 of CPC vide I.A.No.02 of 2022. Marking of the document is the next step. Mere reception of the document does not mean it is admissible in evidence. Hence, mere reception of the additional document would not cause any prejudice to the defendants. The defendants have every right to raise objection while marking the said document before the Trial Court. It is hereby clarified that the defendants are at liberty to raise all their objections while marking the said document before the Trial Court.

8. The Trial Court shall follow the guidelines laid down by this Court in this regard in *M/s.Bajaj Auto Limited, Bombay -vs-*



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M/s.TVS Motor Company Limited, reported in ***2016-4-L.W. 865***, and

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9. With the above observations, this Civil Revision Petition is allowed. The fair and final Order dated February 14, 2023 passed in I.A.No.2 of 2022 in O.S.No.146 of 2017 on the file of Additional District Munsif Court, Pollachi is hereby set aside. I.A.No.2 of 2022 in O.S.No.146 of 2017 on the file of Additional District Munsif Court, Pollachi is hereby allowed. In view of the facts and circumstances of the case, the parties shall bear their own costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Neutral citation : Yes/No

Speaking Order : Yes/No

MSM/TK

To

1.The Additional District Munsif Court
Pollachi.



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R.SAKTHIVEL, J.

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