



C.R.P.(PD).No.2140 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2140 of 2021
and CMP.No.16222 of 2021

1.Ramayammal
2.Jothi Manickam

... Petitioners

vs.

C.Gnanadurai

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order of the learned XX Additional Judge, City Civil Court, Allikulam, Chennai, dated 26.08.2021 passed in I.A.No.1 of 2019 in A.S.No.13 of 2019 by allowing the above Revision with costs.

For Petitioners : Mr.C.Krishna Karthi

For Respondent : Mr.P.Joseph
for M/s.T.Easwaradhas



C.R.P.(PD).No.2140 of 2021

ORDER

WEB COPY

The Civil Revision Petition is filed challenging the order passed by the First Appellate Court dismissing the application filed by the petitioner under Order 41 Rule 27 of CPC for production of additional evidence.

2. The respondent herein filed a suit seeking declaration that settlement deed executed by the first petitioner in favour of second petitioner was null and void and for mandatory injunction to demolish the superstructure put up in the suit property and also for injunction restraining the second petitioner from encumbering or alienating the suit property. The said suit was dismissed by the trial Court. Aggrieved by the same, the respondent filed an appeal A.S.No.13 of 2019 on the file of the XX Additional Judge, City Civil Court, Allikulam, Chennai and the same is pending.

3. The respondent herein in support of his claim marked patta as Ex.P4. Subsequent to the disposal of the suit, petitioners made enquiry and based on the report furnished by Tahsildar came to know the said patta was forged document. In order to prove the said fact, the petitioner wants to



C.R.P.(PD).No.2140 of 2021

produce the report of the Tahsildar as additional documents by filing petition for reception of additional documents. Hence, he filed a petition for reception of additional evidence under Order 41 Rule 27 of CPC.

4. The First Appellate Court by considering the said application separately dismissed the same mainly on the ground that the report of Tahsildar produced by the petitioner as additional evidence came into existence subsequent to the disposal of the suit.

5. It is settled law, the petition for reception of additional evidence shall be considered by the First Appellate Court along with appeal. As held in ***Union of India Vs. Ibrahim Uddin*** reported in **2012 (8) SCC 148**, only if the petition for reception of documents is considered by the Appellate Court at the time of hearing the Appeal, the Court will be in a position to give opinion, whether the additional documents produced would be useful for better disposal of the Appeal.



C.R.P.(PD).No.2140 of 2021

6. In view of the law laid down by the Apex Court in the above mentioned case law, the procedure followed by the Appellate Court in disposing the application for reception of additional evidence independently of the appeal is not correct.

7. The Civil Revision Petition is allowed by setting aside the order and the I.A.No.1 of 2019 is restored to the file of First Appellate Court and the said Court is directed to consider the same along with main appeal.

8. Having regard to the fact the First Appeal is of the year 2019, this Court is inclined to direct the First Appellate Court to dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2024

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



WEB COPY



C.R.P.(PD).No.2140 of 2021

To

The XX Additional Judge, City Civil Court,
Allikulam, Chennai.



WEB COPY



C.R.P.(PD).No.2140 of 2021

S.SOUNTHAR, J.

ub

C.R.P.(PD).No.2140 of 2021

26.02.2024