



C.R.P. (PD) No.3499 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.3499 of 2024
and C.M.P.No.18948 of 2024

Sri Jeyaveera Anjaneyar Thirukkivil
Represented by its Archakar
Sundararajamoorthi
Devaiyar Street
Nagapattinam Taluk & District.

.. Petitioner

Versus

1.Viyasaraja Anjaneya Mathva
Madam V.N.V.Family Trust
Represented by its Managing Trustee
Ram N.Ramachandran

2.Commissioner
Nagapattinam Municipality
Public Office Road, Nagapattinam.

3.Executive Engineer
Tamilnadu Generation and Distribution Corporation Limited
Melakottai Vasal Road
Nagapattinam.

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of CPC, against the order dated 06.07.2024 made in I.A.No.4 of 2024 in O.S.No.183 of 2019 on the file of the District Munsif Court, Nagapattinam.



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C.R.P. (PD) No.3499 of 2024

For the Petitioner : Ms.Ba.Nalini

ORDER

This Civil Revision Petition arises against the order passed by the learned District Munsif, Nagapattinam, in I.A.No.4 of 2024 in O.S.No.183 of 2019 dated 06.07.2024.

2. O.S.No.183 of 2019 is a suit for declaration, to declare that the mutation of tax and other service records in the name of the 3rd defendant as null and void and for a mandatory injunction directing the defendants 2 and 3 to restore the name of the plaintiff in the said records and for permanent injunction restraining the 3rd defendant not to interfere with the peaceful possession and enjoyment of the plaintiff.

3. On service of summons, the 3rd defendant filed written statement and then filed a counter claim.

4. The case was listed for trial and the plaintiff side evidence has been completed. Thereafter, it was the turn of the defendants to let in evidence.



C.R.P. (PD) No.3499 of 2024

At that stage, the 3rd defendant filed an application in I.A.No.4 of 2024 seeking to condone the delay in filing the petition mentioned documents. This application was stiffly opposed by the plaintiff stating that the documents are inadmissible and that some of the documents have come into force pending the litigation. They would also state that certain documents require certification under Section 65 (B) of the Indian Evidence Act. The learned Trial Judge in and by way of the impugned order received the documents, exercising the discretion vested in him under Order VIII Rule 1 A (3) of the Code of Civil Procedure. Aggrieved by the same, the said revision.

5. Heard, Ms.Ba.Nalini, for the Civil Revision Petitioner.

6. Ms.Ba.Nalini would contend that in order to seek leave to file the documents, the defendant would have to give reasons for the same and failure to give reasons is fatal to the application. She would invite my attention to the affidavit filed in support of the I.A.No.4 of 2024 and would state that since no reasons have been given in the affidavit, the Court below ought not to have condoned the delay in receiving the documents.



C.R.P. (PD) No.3499 of 2024

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7. I have carefully considered the submissions of Ms.Ba.Nalini.

8. The question of condonation of delay in receiving the documents does not arise after the amendment to the Code of Civil Procedure. The said provision existed under Order XIII Rule 2 of CPC. It was repealed with effect from 01.07.2002. Having repealed the said provision, the Parliament made a provision under Order VIII Rule 1 A (3) of CPC. The rigour of Order XIII Rule 2 of CPC was reduced and all that the defendant would have to do is to seek the leave of the Court, to present the documents. Order VIII Rule 1 A 3 of CPC would reveal that documents have not been produced along with the list of documents, can be produced at the time of hearing with the leave of the Court.

9. The facts narrated above would show that the plaintiff's evidence is over and the defendants are about to enter the witness box. The word “without leave of the Court” should be purposefully interpreted in the light of the deletion of Order XIII Rule 2 of CPC. The requirement to explain the reasons for the delay would not be essential after the amendment had been made to the Code. Further, leave granted by the Court is discretionary in



10. The Trial Judge who has the benefit of seeing the parties had decided to exercise the discretion in favour of the defendants. At the same time, he had protected the interest of the plaintiff, by stating that the documents for which leave has been granted are subject to proof, relevancy and admissibility. Therefore, the plaintiff is not prejudiced in any manner by virtue of leave granted to the 3rd defendant. Since, vital questions relating to immovable properties are involved, it is better the documents are received and the plaintiff gets a decree after contest.

11. In the light of the above discussion, I am not inclined to admit the revision. The Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

30.08.2024

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C.R.P. (PD) No.3499 of 2024

V.LAKSHMINARAYANAN, J.,

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Index : Yes / No
Internet: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To
The District Munsif, Nagapattinam.

Civil Revision Petition (PD) No.3499 of 2024

30.08.2024