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C.R.P. No. 3676 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 3676 of 2024

and

C.M.P. No. 19965 of 2024

A.Dharmaraj

... Petitioner / Petitioner / Defendant

Vs.

V.Bhagyalakshmi

... Respondent / Respondent / Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.07.2024 passed in I.A. No. 2 of 2023 in O.S. No. 7694 of 2019 pending on the file of the learned IV Additional City Civil Court, Chennai.

For Petitioner : Mr. T.Dharmarajan

For Respondent : Mr. R.Baskar

ORDER

The defendant in O.S. No. 7694 of 2019 is the civil revision petitioner.



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2. O.S. No. 7694 of 2019 is a suit for declaration that the sale deed executed by the plaintiff in favour of the defendant on 24.11.2011 is null and void and not binding and has to be cancelled and for a consequential relief of permanent injunction restraining the defendant from interfering with the peaceful possession of the plaintiff. This suit was filed as C.S. No. 739 of 2014 on the file of this Court. Subsequently, on enhancement of pecuniary jurisdiction, the suit has been transferred to the file of the IV Additional City Civil Court and re-numbered as O.S. No. 7694 of 2019.

3. As a counterblast, the defendant as a plaintiff filed C.S. 800 of 2018 seeking for recovery of possession. This suit too has been transferred from the file of this Court to the file of the City Civil Court for joint trial and re-numbered as O.S. No. 1843 of 2019. Both the suits are at the stage of trial.

4. Being the first suit, O.S. No. 7694 of 2019 was taken up for trial, and it is filed jointly with the another suit. The plaintiff has completed her evidence and the defendant has also cross-examined her.

5. When the matter was posted for the evidence of the defendant, he took out an application in I.A. No. 2 of 2023 seeking to receive additional



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documents to be filed. He invoked the provisions under Order VIII Rule 1A(3) of the Code of Civil Procedure. The said application came to be dismissed.

Hence, the present revision.

6. Heard Mr. Balachander representing Mr. T.Dharmarajan for the civil revision petitioner and Mr. R.Baskar for the respondent.

7. Mr. Balachander pleads that in his written statement, he has specifically stated that the Housing Board had alienated the property in favour of the plaintiff's father and thereafter the present plaintiff had alienated the same in his favour. He would point out that when the plaintiff was called upon to handover the possession of the property, she started giving him troubles by lodging criminal complaints. He would state that prior to the litigation, several documents have come about on the basis of the sale deed and it is these documents that he seeks to produce before the Court. He would point out though few of the original of the documents have been produced, the others are photostat copies.

8. Mr. R.Baskar would point out that nowhere in the affidavit has the defendant pleaded any reason for the purpose of granting leave for receipt of



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the documents. He would state what has been produced are only Xerox copies and secondary evidence cannot be utilized for the purpose of tendering evidence.

9. I have heard both sides and carefully perused the records.

10. This is an application under Order VIII Rule 1(3). At the stage of receipt of the documents, the Court is not concerned with relevancy, admissibility or genuineness of the documents. All that the Court considers is whether leave must be granted to a party or not. A perusal of the affidavit shows that the plaintiff had kept the documents in Tiruchirappalli and was able to secure the same only after the Courts were closed for vacations in May 2023. Soon thereafter, he has produced the documents before the Court. Whether these documents are relevant for the purpose of the case can be gone into only at the time when they are marked at during evidence.

11. At the stage of granting leave, the Court should permit the parties to bring forth before it all the documents that the party wishes to exhibit. This is because, in case, the documents are rejected at the time of trial, the party who loses the benefit of producing these documents will certainly trouble the



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appellate Court to excise the powers under Order XLI Rule 27. That will only prolong the agony of litigation for the parties. An application under Order VIII Rule 1(3) requires the same liberal treatment as an application under Order VI Rule 14(3). Prior to the amendment to the Code of Civil Procedure in 2002, a party had to explain the delay under Order XIII. The Parliament had placed the burden on the party to explain the delay in production of the documents. The high bar placed under Order XIII has now been relaxed and has been softened by using of the word "leave of the Court".

12. Being satisfied with the explanation offered and taking a liberal approach to interpret the provision, the order passed by the IV Additional Judge in I.A. No. 2 of 2023 in O.S. No. 7694 of 2019 dated 18.07.2024 is set aside. The apprehension of Mr. R.Baskar that irrelevant documents will be brought in by the plaintiff can be addressed by the Court by permitting the plaintiff to object at the time of marking of the said documents. I make it clear, I have not gone into the relevancy, admissibility or genuineness of the said documents in this revision. I have confined myself only with respect to the grant of leave.



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WEB COPY 13. In the result, the civil revision petition is allowed. No costs.

Consequently, the connected miscellaneous petition is closed.

26.09.2024

Index : Yes / No

Speaking order : Yes / No

NCC : Yes / No

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To

The IV Additional City Civil Court, Chennai.



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V.LAKSHMINARAYANAN, J.,

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