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C.R.P. No. 3644 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 3644 of 2024

and

C.M.P. No. 19808 of 2024

Sadaiyappa Chettiyar (died)

1. Venkatesh

2. Shanmugam

3. Ramesh

4. Subash

... Petitioners / Petitioners / Plaintiffs

Vs.

1. Dhanuskodiyammal

2. Govindan

3. Muthuvel

...Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.07.2024 passed in I.A. No. 311 of 2024 in O.S. No. 187 of 2013 on the file of the District Munsif Court, Sankarapuram.

For Petitioners : Ms. R.Divyapreathika

ORDER



C.R.P. No. 3644 of 2024

This civil revision petition arises against the order of the learned District Munsif Court at Sankarapuram in I.A. No. 311 of 2024 in O.S. No. 187 of 2013 dated 03.07.2024.

2. The civil revision petitioners are the plaintiffs in the suit. O.S. No. 187 of 2013 is a suit for permanent injunction restraining the defendants not to interfere with the peaceful possession and enjoyment of the property of the civil revision petitioners. Evidence in the suit commenced on 20.03.2019. The original plaintiff, in order to demonstrate that he is in possession of the property, has marked Exs.A1 to A8. Thereafter, he has examined PW2 and PW3. Subsequently, the defendants have entered the witness box and have deposed and have marked Ex.B1 to B3. Thereafter two other witness in DW2 and DW3 have been examined, evidence was closed and the suit was posted for arguments. At that stage, an application was filed by the plaintiffs to reopen the evidence for the purpose of production of settlement deed of the year 1964.

3. The claim of the plaintiff is that by virtue of the settlement deed produced before the Court, he would be in a position to demonstrate that the said document does not relate to the suit schedule mentioned property. The



learned Trial Judge dismissed the petition holding that where there is no plea on the settlement deed, the question of marking the documents does not arise.

Hence, this present revision.

4. Heard Ms. R.Divyapreathika for the civil revision petitioners.

5. Ms. R.Divyapreathika would submit that on the basis of this document, the case of the defendants can be falsified. She would plead that only one opportunity is required and the said settlement deed will be marked through the PW1/plaintiff. Hence, she states that instead of giving an opportunity to the plaintiff, the application came to be dismissed. Therefore, she seeks the order to be revised.

6. It is a settled position of law that unless and until there is a pleading with regard to any document, the question of receiving the said document in evidence does not arise. Insofar as the 1964 settlement deed, which Ms. R.Divyapreathika's client wants to mark in the proceedings, there are no pleading either by the plaintiff or by the defendant. This is a simple suit for injunction where the plaintiff pleads that he is in possession of the property from prior to the suit being initiated and the defendants were attempting to interfere with the possession. The document sought to be marked, is being



C.R.P. No. 3644 of 2024

relied upon by the defendants. If the defendants do not choose to produce the original of the settlement deed, it is open to the plaintiff to draw an adverse inference of the same. For the said purpose, the evidence cannot be reopened. The factum that DW1 admitted to a settlement deed of the year 1964 is an evidence only shows that it is up to the defendant to substantiate his case to defeat the suit by the plaintiff. The plaintiff need not take upon himself the burden that the defendant has to discharge. I do not see any error in the order of the learned Trial Judge. Hence, the civil revision petition is dismissed.

7. Accordingly, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

09.09.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
pal

To
The District Munsif Court, Sankarapuram.



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C.R.P. No. 3644 of 2024

V.LAKSHMINARAYANAN, J.,

pal

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