

(2009) 02 MAD CK 0040

In the Madras High Court

Case No : C.R.P. (PD) No's. 927 and 928 of 2006 and M.P. No. 1 of 2006

A. Stephan, Erik Stephan and Syril Stephan

APPELLANT

Vs

Ponnammal, R. Mohankumar and R. Suryanarayanan

RESPONDENT

Date of Decision : 18-02-2009

Acts Referred:

Citation : (2009) 5 LW 191 : (2009) 8 MLJ 1217

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : No appearance, for the Appellant; T.V. Krishnamachari, for the Respondent

Final Decision : Dismissed

Judgement

G. Rajasuria, J.—Inveighing the order dated 15.06.2006, passed by the Additional District Cum Sessions (FTC II) Court at Coimbatore, in

I.A. Nos. 349 and 350 of 2006 respectively in O.S. No. 781 of 2004, this civil revision petition is focussed.

2. Heard the learned Counsel for the respondents. Despite printing the name, there is no representation for the petitioners.

3. An epitome and "resume" of the relevant facts which are absolutely necessary and germane for the disposal of these revision petitions would run

thus:

The respondents/plaintiffs filed the suit O.S. No. 781 of 2004 for recovery of a sum of Rs. 20,00,000/- (Rupees twenty lakhs only) with interest

and cost. The defendants entered appearance and filed the written statement. The trial also commenced. However, the plaintiffs filed I.A. No. 349

of 2006 for reopening the plaintiffs' side and I.A. No. 350 of 2006 for recalling

P.W.1, so as to mark one document which was left out to be marked. The lower Court considered both the applications and passed orders allowing those applications. Being disconcerted with and aggrieved by the order of the Court below, these two revision petitions have been focussed on various grounds inter alia thus:

The lower Court should not have allowed the applications so as to enable the plaintiffs to fill up the lacuna in the evidence and that too when the matter had been posted for judgment; the lower Court simply reproduced the averments of the plaintiffs in the affidavits concerned and allowed the applications. Accordingly, the revision petitioners prayed for setting aside the order of the lower Court.

4. A bare perusal of the order of the lower Court including the typed set of papers would indubitably and unambiguously, plainly and manifestly make the point clear that in the chief examination affidavit filed by the plaintiff as P.W.1 Surya Narayanan, one document is referred to as Ex. A6.

In fact, Ex. A6 according to the said affidavit refers to an endorsement on the back page of the agreement to sell dated 08.05.1996. As such, it is not a new document which, at the fag end of the suit the plaintiffs wanted to file, but it appears that out of oversight that was not specifically marked as exhibit during trial. The lower Court correctly taking into account the said fact allowed the applications. If at all there is any new document which is sought to be introduced by the plaintiffs as an after thought, then the question of objection to it would arise. As such, in this case it is palpably and pellucidly evident and as clear as day that there is no wrong on the part of the lower Court in allowing both the said applications.

In matters of this nature, no elaborate order on the part of the lower Court is required because it is obviously and axiomatically clear that such request of the plaintiffs should be allowed in the interest of justice and accordingly the lower Court allowed those applications warranting no interference by this Court. In the result, these civil revision petitions shall stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.