

(2013) 04 MAD CK 0345

In the Madras High Court

Case No : Civil Revision Petition (MD) No's. 342 and 343 of 2013 (PD) and M.P. (MD) No. 1 of 2013 in C.R.P. (MD) No. 342 of 2013

G. Pandiyarajan

APPELLANT

Vs

M/s. Inibi and Leelavathi Acro Tech (P) Ltd., Rajeswari,
Shanmugam and The Sub Registrar sattur

RESPONDENT

Date of Decision : 05-04-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 18 Rule 17

Citation : (2013) 04 MAD CK 0345

Hon'ble Judges : R.S. Ramanathan, J

Bench : Single Bench

Advocate : G.R. Swaminathan in Civil Revision Petition MD Nos. 342 and 343 of 2013 PD, for the Appellant; K. Sekar for Respondents 1 and 2 in Civil Revision Petition (MD) Nos. 342 and 343 of 2013 (PD), for the Respondent

Final Decision : Allowed

Judgement

R.S. Ramanathan, J.—The plaintiff in O.S. No. 179 of 2010 on the file of District Munsif Court, Virudhunagar, is the revision petitioner. When the suit was posted for arguments, the revision petitioner/plaintiff filed I.A. No. 172 of 2012 to reopen and recall P.W. 1 and to mark certain documents and those applications were dismissed and aggrieved by the same, these revisions were filed.

2. It is submitted by the learned counsel for the revision petitioner that the documents, which was sought to be marked are registered sale deed and certified copy of the registered sale deed of the year 1923 and 1930 and those documents are the documents in the name of the predecessor in title of the plaintiff and the plaintiff has produced the sale deed in his favour and the earlier title deeds were located recently and therefore, they were not filed earlier and no prejudice would be caused to the respondents by marking those documents and only for the purpose of marking those documents, these applications were filed and without appreciating the same the Court below has dismissed those

applications. He also relied upon the Judgment of the Hon''ble Supreme Court reported in Vadiraj Naggapa Vernekar (D) Through Lrs. Vs. Sharad Chand Prabhakar Gogate, in support of his contention.

3. The learned counsel for the respondents 1 and 2 vehemently opposed the contention of the learned counsel for the revision petitioner and submitted that the application was filed at the fag end of the trial and it was filed only with an intention to drag on the proceedings and therefore, the Court below rightly dismissed the applications. As a matter of fact, the trial Court without properly appreciating the Judgment of the Hon''ble Supreme Court reported in Vadiraj Naggapa Vernekar (D) Through Lrs. Vs. Sharad Chand Prabhakar Gogate, dismissed the applications. Admittedly, the applications were filed at the fag end of the trial, but on that ground, the applications cannot be dismissed, if the documents throw light on the facts of the case and help the Court to arrive at the correct conclusion. As a matter of fact, the Judgment reported in Vadiraj Naggapa Vernekar (D) Through Lrs. Vs. Sharad Chand Prabhakar Gogate, , it has been held by the Hon''ble Supreme Court that the power under Order 18 and Rule 17 C.P.C., can be exercised by the Court not to fill up any lacunae, but to decide the issue involved in this case. Admittedly, the documents, which are sought to be marked are the prior title deeds of the plaintiff and therefore, there cannot be any objection for marking those documents. Without considering the purpose for which the applications were filed, the Court below mechanically dismissed the applications. Hence, the order of the Court below is set aside and the revisions are allowed on payment of cost of Rs. 2,000/- by the revision petitioner to the learned counsel appearing for the respondents 1 and 2 before this Court within two weeks from the date of receipt of this order, as the applications were filed at the fag end of the trial. The respondents are entitled to cross examine the witness on the side of the plaintiff with relation to the documents, which are sought to be marked and the plaintiff is also restricted to put questions only with respect to those documents, which are allowed to be marked. No costs. Consequently, the connected miscellaneous petition is closed.