

(2012) 07 MAD CK 0037

In the Madras High Court

Case No : C.R.P. (PD) No. 2489 of 2012

Sankaran, No. 15/39, New Bharath Hotel, R.K.V. Road, Erode

APPELLANT

Vs

S.A.M. Amjad Ibrahim, No. 3, Jeenath Complex, Bhavani
Main Road, Erode-5. 2. J. Fathima Ziraira, D. No. 15/1,
Rahamath Nagar, B.P. Agraharam, Erode-5. 3. J, Mahamutha
Rasina, D. No. 28, Vinayagar Street, B.P. Agraharam,
Erode-5.4. P.R. Subbarayalu, No. 31, Venkata Perumal Street,
Erode

RESPONDENT

Date of Decision : 25-07-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (2012) 4 CTC 836

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : T. Muruga Manickam, for the Appellant; S. Krishnasamy, for the Respondent

Final Decision : Dismissed

Judgement

V. Dhanapalan, J.—This Civil Revision Petition has been filed challenging an order dated 31.10.2011 made in I.A. No. 971 of 2011 in O.S.

No. 744 of 2008 on the file of the I Additional District Munsif Court, Erode. The Revision Petitioner is the Plaintiff in the Suit which is one for a

permanent injunction restraining the Defendants from in any manner interfering with the peaceful possession of the suit schedule property. The

Respondents/Defendants have filed their Written Statement and the matter has been proceeded on trial. At that stage, the Revision Petitioner made

an attempt to move an Application under Order 13, Rule 3, read Section 151, C.P.C. praying for an order to remove Exhibits B.4 & B.5 from the

list of Exhibit of documents on the ground that those documents are inadmissible

in evidence for want of registration and Stamp duty.

2. The learned Trial Judge, on consideration of the Petitioner's case, passed an order to the following effect:

On perusal of the endorsement made by the Respondent and on perusing the entire documents it is seen that the disputed documents which are

Exhibits B.4 & B.5 have already been marked. At the time of marking of those documents, the Petitioner-Plaintiff has not objected to the same.

Therefore, the Trial Court took a view that the validity of the documents and acceptance of the same has to be decided by the Court only at the

time of judgment (trial). However, the trial Court has also opined that mere marking of the documents will not give any evidentiary value and

dismissed the Interlocutory Application with liberty to the Petitioner to raise this objection at the time of argument (trial).

3. Mr. T. Muruga Manickam, learned Counsel appearing for the Revision Petitioner has consistently pleaded that unregistered and unstamped

document is inadmissible in evidence and, therefore, the two documents namely, Exhibits B.4 & B.5, cannot be taken in evidence while proceeding

with the trial.

4. On the other hand, Mr. S. Krishnasamy learned Counsel appearing for the Respondents points out that there was an endorsement made by the

Respondents before the Trial Court and there was no objection at the time of marking of the documents and that all the contentions raised by the

Revision Petitioner here can be agitated during trial and, therefore, the decision arrived at by the Trial Court cannot be faulted with.

5. Heard the learned Counsel for the parties and perused the material documents made available on record.

6. Admittedly, the Revision Petitioner is the Plaintiff in the Suit filed for a permanent injunction restraining the Defendants from interfering with the

peaceful possession and enjoyment of the suit schedule property. The Defendants have filed their Written Statement. The Suit is ripe for trial. At

that stage, the Petitioner has attempted to stall the proceedings by filing an Interlocutory Application seeking to remove Exhibits B.4 & B.5 from

the list of documents on the ground that those two documents are unregistered and unstamped and they cannot be taken into consideration as

evidence. It is seen that there was an endorsement made by the Revision

Petitioner before the Trial Court and that there was no objection on the side of the Plaintiff while marking those two documents. Therefore, it is now for the Trial Court to frame an issue and proceed further with the matter including the validity and acceptance of those two documents. If at all the Revision Petitioner/ Plaintiff wants to object to any document, it is always open to him to contest the issue during trial. Instead of resorting such a procedure, the Revision Petitioner has attempted to stall the proceedings by seeking to remove Exhibits B.4 & B.5 from the list of exhibits. It is true that an unregistered and unstamped document is inadmissible in evidence. But, already the Plaintiff has not objected to the marking of those two documents and has also made an endorsement before the Trial Court. Therefore, it is for the Plaintiff to contest the validity and acceptance of those documents during trial. The Trial Court has rightly come to the conclusion that mere marking of documents will not give any evidentiary value to those documents and that the Plaintiff has every right to raise an objection at the time of trial. Therefore, the reasoning of the Trial Court in rejecting the Interlocutory Application, in the considered opinion of this Court, does not call for any interference and, therefore, this Civil Revision Petition stands dismissed. There shall be no orders as to the costs. However, the Revision Petitioner is at liberty to question the validity of those documents namely Exs. B.4 & B.5 at the time of trial. Counsel on either side, request for a direction to be issued for speedy disposal of the Suit. The Trial Court is hereby directed to expedite the disposal of the Suit.