

Order Below Exh. 49

01. By this application, defendant No. 1 is praying to issue directions to the defendant No. 3/Pophali Gram Panchayat Office to produce the document i.e. carbon copy of tax receipt No. 13 dated 10/06/2014.

02. Plaintiff strongly objected this application by filing her Say overleaf. Defendant No. 3 filed its Say at Exh. 54 and has expressed its readiness to produce said document on record of this case upon the direction of the Court.

03. Ld. Adv. for defendant No. 1 argued that, plaintiff has filed false and forged tax receipt bearing No. 13 dated 10/06/2014 along with the list of document (Exh. 03). Plaintiff has made over-writing in mentioning house number on the said tax receipt. The carbon copy of said tax receipt is in possession of the defendant No. 3 i.e. Gram Panchayat Office Pophali. Defendant No. 1 has clearly contended in his W.S. that, plaintiff never paid the Grampanchayat tax in respect of the suit property house No. 230. If defendant No. 3 will be directed to produce on record the carbon copy of said tax receipt No. 13, then it will be helpful for the Court to decide the authenticity of said tax receipt. It will help in resolving the matter of controversy more effectively. No prejudice will be caused to the plaintiff if such directions will be given to defendant No. 3. Hence, this application may be allowed.

04. Ld. Adv. for the plaintiff argued that, the tax receipt No. 13 filed by plaintiff is a public document which has presumptive value of correctness. The plaintiff never made any over-writing or fabrication on the said document. Defendant No. 3 has filed its W.S. at Exh. 29 and he has not denied the correctness of said tax receipt. Even defendant No. 1 has not objected said tax receipt in his W.S. Hence, this application is not tenable in the eyes of law. Matter is now posted of cross-examination of plaintiff who is a old-aged lady. Defendant No. 1 is filing various false applications to prolong the matter. Hence, this application may be rejected with costs.

05. I have given thoughtful consideration to the arguments advanced by both sides. Perused the pleadings of both parties and documents on record. Perused the tax receipt bearing No. 13 dated 10/06/2014 filed by the plaintiff along with list of documents (Exh. 03). Defendant No. 1 is disputing the correctness of said tax receipt stating it

to be forged and fabricated. It is contended that the secondary copy (carbon copy) of said tax receipt is in the possession of defendant No. 3 i.e. Gram Panchayat Office Pophali. Defendant No. 3 has filed its Say at Exh. 54 and has contended that, the original record of Gram Panchayat is under the direct supervision of Sarpanch. Defendant No. 3 has further expressed its readiness to produce the carbon copy of said document if the Court directs it to do so. The present suit is for the recovery of possession of suit house property No. 230 situated at village Pophali. The tax receipt bearing No. 13 is purported to be of the house No. 230. Defendant No. 1 has contended in his W.S. that, plaintiff never paid Gram Panchayat tax of the suit house property. Thus, the tax receipt bearing No. 13 is a document relating to the matter in controversy in this suit. If the carbon copy of said tax receipt which is admittedly in the possession of defendant No. 3 i.e. Gram Panchayat Office Pophali is directed to be produced on record, then it will help the Court to decide the genuineness of said tax receipt and it will aid to arrive at proper conclusion while resolving the matter in controversy. No prejudice will be caused to the plaintiff if such directions are given to the defendant No. 3.

06. At present, matter is posted for the cross-examination of plaintiff on affidavit (Exh. 32). Section 30 r/w Order XI Rule 14 of Code of Civil Procedure empowers the Court to direct any party to the suit to produce the document in his possession or power at any time during the pendency of the suit. Defendant No. 3, in its Say at Exh. 54, has also expressed its readiness to produce the carbon copy of said tax receipt No. 13, if the Court directs it to do so. Hence, I find no legal impediment in allowing this application. In the result, I pass following order :-

ORDER

01. The application (Exh. 49) is hereby allowed.
02. As per Order XI Rule 14 of Code of Civil Procedure, defendant No. 3 is hereby directed to produce on record the tax receipt book of Year 2014-15 containing the carbon copy of the tax receipt bearing No. 13 dated 10/06/2014.

Date : 16/08/2019

Sd/-
(Sachin S. Tat)
Civil Judge Jr. Division,
Umarkhed