

In The Court of District Munsif, Mudukulathur
Present : Thiru. S.Arumsankar, B.A, B.L.,
District Munsif, Mudukulathur
Thursday the 01st August 2024
IA 2/2024
in
OS 24/2016

Sundari

.....Petitioner/Plaintiff

/VS/

R.Sivasankarakumar
(Through his Power agent Thangapandiyan)

.....Respondent/Defendant

This petition is coming on 16.07.2024 before this court for final hearing in the presence of Thiru.K.Veluchamy, Counsel for the Petitioner/Plaintiff and of Thiru.H.Muralitharan, Counsel for the Respondent/Defendant and upon hearing both said arguments and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:-

Order

This petition is filed U/o.13 rule 3 cpc to reject the documents. Which was marked on the side of Respondent/Defendant.

1)The avernments in the petition

i)The respondent/defendant without filing the delay condone application which was marked as Exhibits. Thus documents were in inadmissible documents. Hence, he pray's to reject the Exhibits documents.

2)The avernments in the counter

i)The petition is not maintainable. This petition filed to drag on the proceeding. The said documents are clearly mentioned in the written statements and

also undertake to file the original documents at the time of giving evidence. Such documents were already marked at the time of respondent/defendant side evidence. Once the documents are marked as exhibits this petitioner is not entitled to claim to reject the documents. Such documents should be considered at the time of Judgment.

Hence, he prays to dismiss the petition with cost.

3) Now this court determine whether the petition is liable to be allowed or not?

Heard Both side. Petition, Counter and available records were perused. Both side neither any oral evidence nor produce any documents.

4) The Petitioner is a Plaintiff. The main suit filed for the prayer of declaration and consequential injunction and declare the settlement deed no 173/2013, dated 12.01.2013 as null and void.

5) Before going into the discussion this court reproduce the order 13 rule 3 cpc here in **order 13 rule 3 Rejection of irrelevant or inadmissible documents** *The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.*

6) The petitioner/plaintiff counsel content that the petition that without filing the condone delay petition the documents marked on the side of respondent/defendant are irrelevant or inadmissible in the suit proceedings.

7) In the other hand respondent/defendant content that they which are all mentioned in the written statement and such documents are undertaken by the Respondent/Defendant, it would be filed at the time of evidence. Hence, it is not necessary to file a condone delay application.

8) It is found in the written statement that the list of documents are mentioned with undertake to produce the documents at the time of trial.

9) On 05.02.2023 the respondent/defendant examined himself as DW1 proof affidavit also filed. After that the case was adjourn for marking of documents on 12.12.2023. On 12.12.2023 Ex.B1 to Ex.B9 were marked and then the case was posted for further marking of documents and Ex.B10 to Ex.B12 were marked on 09.01.2024.

10) After that this main case was running on the stage of DW1 cross on 23.01.2024. In some of the occasional the DW1 did not present. If the DW1 had present the petitioner/plaintiff requested to cross of DW1.

11) On 05.03.2024 this petition has been filed by the petitioner/plaintiff. It is clearly admitted that the respondent/defendant did not filed the condone application to receive the documents. As per order 8 rule 1(A) cpc without filing such application the documents were received and marked as exhibits.

12) As per order 13 rule 3 cpc that the court may reject any documents. Which it consider irrelevant or otherwise inadmissible. So for as the above said provision is very clear when there is any irrelevant documents of the suit or inadmissible documents alone may rejected. But case on the hand the documents were received without filed petition to receiving the documents. This is the procedural defects and it could be a curable one.

13) The fair opportunity should be given to the both side. The respondent/defendant also bounded duty to disprove and prove the facts which has been mentioned in the pleadings. Even this respondent/defendant also mentioned the list of documents in the written statement.

14) Hence, taken into the consideration of the facts and circumstances of this case, this court feels that the respondent being the defendant in the suit, he has defend his case by producing evidence. Since the petitioner/plaintiff is having opportunity of cross examination of the respondent/defendant about the documents. For the above said reasons this court declined to allow this petition.

In the result this petition is dismissed. No cost.

Dictated by me typed by Typist directly and corrected by me and pronounced in open court 01st day of August 2024.

**District Munsif (FAC),
Mudukulathur.**

District Munsif Court,

Mudukulathur.

IA 02/2024

in

OS No.24/2016

Order

Dated : 01.08.2024