

**IN THE COURT OF III ADDITIONAL DISTRICT & SESSIONS JUDGE,
DHARAPURAM**

PRESENT : Thiru.S.Nagarajan, M.L.,

III Additional District and Sessions Judge,
Dharapuram.

Tuesday, 18th Day of April 2023

(Thiruvalluvarandu 2054 Sobakiruthu Varudam Chithirai Thingal 05th day)

I.A.No. 1 of 2023

in

O.S. No. 514 of 2021

R.Krishnamurthy

..... Petitioner/Plaintiff

-Vs-

1.K.S.N.Venugopalu

2.K.V.Thenmozhi

3.K.V.Vishnu Chenduran

4.K.V.Swathi

..... Respondents/Defendants

This Petition came before me on 12.04.2023 for final hearing in the presence of Thiru.N.Sathishkumar, Advocate for the Petitioner/Plaintiff and Thiru.R.Ramani, Advocate for the Respondent/Defendant and hearing the arguments of both sides and having stood over till this day for consideration, this court pronounce the following :-

ORDER

By this Petition, I shall deal with an application under Order VII Rules 14(3) of CPC for grant leave to the petitioner and receive the petition mentioned documents as evidence on the side of the petitioner and pass such other suitable orders.

2) Brief averments in the affidavit filed by the petitioner in support of the petition :

i) The petitioner/plaintiff in the suit. I have to be examined as PW1 in the above said suit. The case is posted today for commencement of trial. The petitioner

submit stated that on side, to real estate business, the certificate of Incorporation of petitioner partnership firm viz., RK NIVI REAL ESTATES LLP, RK NIVI DHAYA REAL ESTATES LLP. RK DHAYU REAL ESTATES LLP. KRISHNA MURUGA REAL ESTATES LLP along with LLP Agreements along with Section 65(B) of Indian Evidence Act affidavit, Certificate of Incorporation of my private limited company viz., M/s.Chitrahar Infrastructure India Private Limited along with Form 32, Articles of Association and Memorandum of Association and Certificate of Incorporation of plaintiff's private limited company viz., M/s.Rk-Imay Property Developers Private Limited along with Articles of Association and Memorandum of Association and more particularly to show my capable of paying the balance sale consideration, I am herewith filing the IT Return along with all Annexures filed by me for the assessment years : 2018 to 2019, 2019 to 2020, 2020 to 2021, 2021 to 2022 and duly certified by the Chartered Accountant of the plaintiff and after the filing of the suit, I had issued a Caution Notice through a Tamil Daily Newspaper viz. Daily Thanthi at page No.5 with respect of suit properties, have to be produced and have to be marked on my side through myself/PW1, for that purpose, I have filed this application seeking permission to receive the additional documents which are more fully mentioned in the list in the annexed petition.

ii) This petition is neither wanton nor negligent but only to due to the above said bonafide reason, unless and until this petition is allowed, I will be put to great irreparable loss and hardship.

iii) Hence in the petitioner may be pleased to receive the additional documents which are more fully mentioned in the annexed petition in evidence on plaintiff side and thus render justice.

3) Brief averments in the Counter filed by the 1st Respondent/Defendant :-

(3.1) The petition is not maintainable in law and on facts. The petition has been filed only to fill up the lacune and laches on the part of the petitioner and filing the worthless papers in volumes is just to distract the Court and to gain the sympathy of this Court. These documents were very well in the custody of the petitioner and the same are filed only at a belated stage with ulterior motive and to boost and boast about the image of the petitioner before this Court. Neither the document dated 05.07.19 styled as agreement nor the presuit notice dated 04.01.2020 disclose about the petition mentioned documents or the names of the partnership firms and the private limited companies. The petitioner has dumped unwanted, irrelevant and immaterial papers just to hood wink the court. The petitioner is wailing in vain by producing these unwanted documents. The petitioner/plaintiff ought to have produced the documents to prove that he was always and has been ready and willing to purchase the suit property on the date of entering into the alleged agreement dated 05.07.2019.

(3.2) The petitioner cannot be allowed to mark the documents and great prejudice will be caused to these respondents if the petition is allowed. The petitioner has not come to court with clean hands. There is no merit truth or substance in the

affidavit of the petitioner. The petition may therefore be dismissed with costs and justice be rendered.

4. Whether the petitioner is entitled to ?

5. Considering the rival submission, the petitioner/plaintiff has stated that the additional documents has to be receive with regard to his Real Estate Business and IT Returns. The respondents/defendants had objected that those documents have not been stated in the plaint and the private firm and the IT Returns has no relevancy to the suit.

Considering the rival submission, it is seen that the suit has been posted for trial on 02.01.2023 and that PW.1 chief affidavit was filed on 09.01.2023. The suit was adjourned to 24.01.2023 with day cost of Rs.1,000/- and that on 24.01.2023, this application is filed under Order 7 Rule 14(3) of C.P.C. The documents are submitted pertaining to the partnership firm and IT Return has been filed. The relevancy of the documents has to be analyzed during arguments. The additional documents may be marked subject to its proof and relevancy and the respondents would be provided fair and reasonable opportunity to cross examined the concerned witness with regard to the documents that are now sought to be marked. It is hereby observed that near marking of document would not amount to automatic admission of the same.

6. In the result,

This petition stands partly allowed with the following observations :

a) the petitioner is permitted to mark the additional documents subject to its

proof and relevancy,

b) the respondents would be provided fair and reasonable opportunity to cross examined the concerned witness with regard to the documents that are now sought to be marked,

c) there will be no order as to cost.

This order is directly dictated by me to the Stenographer and typed by her directly in the Computer and corrected and pronounced by me in the open Court on this the **18th day of April, 2023.**

III Additional District & Sessions Judge,
Dharapuram.

LIST OF PETITIONER SIDE WITNESS:NIL

LIST OF DOCUMENTS FILED BY THE PETITIONER : Nil

LIST OF WITNESS AND DOCUMENTS BY THE RESPONDENTS : Nil

III Additional District & Sessions Judge,
Dharapuram.

IA.No. 1/2023

in

O.S. No. 514/2021

Fair/Draft Order

Date : 18.04.2023

III ADJ,DPM.