

ISSUE

Whether non filing of original or certified copies of the documents along with the Plaint can be a reason for rejecting the Plaint under Order VII Rule II CPC.

Whether the decision of Hon'ble Supreme Court in Church of Christ Charitable Trust & Educational Charitable Society Vs M/s.Ponniamman Educational Trust. Reported in 2012(8) SCC 706 render -filing of Original or Certified copies along with the Plaint Mandatory.

The Hon'ble Supreme Court in their decision in Church of Christ Charitable Trust which was extracted in Para 12 & 13 of the decision is based on the facts of the case. Fact being that the suit for Specific Performance based on the authority of Power of Attorney and there were no averments in the Plaint as also no original or Certified copies were filed along with the Plaint.

Hon'ble Court held" We are satisfied that neither the documents were filed along with the Plaint nor the terms there of have been set out in the Plaint"

In Para 21 Their Lordships would refer that Order VII Rule 14(1), Order VII Rule 14(2) Form No 47 & 48 in appendix A of the Court are statutory in nature.

Our Hon'ble High Court, Madras in Owners and Persons Interested in the Vessel M T Titan Vision vs KTV Health Food Pvt Ltd., Reported in 2016 2 CTC (12) in Para 39 deals with the facts of the where the Plaintiff had not filed original Bills of lading along with the Plaint at the time of filing of the suit and therefore the plaint were sought to be rejected under Order VII Rule 11 CPC.

The Church of Christ decision of Hon'ble Supreme Court was also cited as a Precedent to reject the Plaint.

Hon'ble Court in Para 42 had distinguished the Judgment and held that The decision laid in the above said Judgment cannot be made applicable to the present fact of the case". Kind reference be made in Para 43, 44 & 51 and held that non Production of any document would not mandate an automotive rejection of the Plaint so long as Order VII Rule 14(3) of CPC itself recognize that the Plaintiff, even where he has failed to produce a document relied upon in the Plaint as a right to

produce such document at the stage of evidence with leave of the Court.

Hon'ble High Court Punjab and Haryana in Anant Kaur Chahal vs A.S.Mann held in MANU/PH/1513/2015 had in very Similar issue where the Hon'ble Court in Para 22 framed the issue as " whether non furnishing of documents along with the Plaint at the time of filing there of its fatal.

The Hon'ble High Court negated the issue basing on Order VII Rule 14(3) CPC in Para 32 it was held " merely of non filing of document with the Plaint at the time of filing of suit is not fatal as the case there of has been given in Order Rule 14 of CPC.

The Hon'ble High Court of Delhi in Aktiebolaget Volvo Vs R.Venkatachalam Reported in MANU/DE/1690/2009 had elaborately conducted a legal survey and starting from Para 7 the provisions Of CPC were referred more so Order V Rule 7, Order rule 14, Order VIII Rule IA, Order XI Rule 14, Order XI Rule 15, Order XI Rule 9 and concluded that the above said provisions referred. only to document. A reference was made to Order XIII Rule 1 and observed " Order XIII Rule 1 for the 1st time provide for the parties to produce before the settlement of issue " All the documentary/evidence in original where the copies there of have been filed along with the Plaint or Written Statement.

In Para 13 Reference in CPC to documents prior to Order XIII Rule 1 is not necessarily to the original documents and includes copies with the document. After referring to Section 3 of Evidence Act Section 3 (18) of General Clauses Act, Sec 29 of IPC in Para 19 held that "From all the aforesaid definitions of document found by me, a photocopy or a copy would also be a document. Thus it cannot be said that the provisions of the CPC for filing of documents necessarily relate to original documents. The legislature has used the word original only in Order 13 Rule 1 of CPC".

Therefore in view of the above, Civil Procedure Code do not mandatorily require filing of Original or certified copies along with the Plaint. As in Order XIII rule 1 originals can be filed during Trial.

The CPC provides for production of original under Order 13 Rule I during the course of the Trial Order VII Rule 14 (3) provides for submission of any document with the Leave of the Court.

In view of the above, for non filing of Original/Certified copies of the document along with the Plaint the same cannot be rejected under Order VII Rule II of CPC. Furthermore, it is the discretion Of the Trial Court to seek original or Certified copies of document as and when required even prior to framing issues.

A passing reference, may be made to original side Rules of Hon'ble High Court Madras and in order IX Rule 24(e), The Original of documents filed earlier are required for marking as exhibits would be produced at the hearing of the Suit. The OSR do not provide for filing of originals at the time of filing the suit along with the plaint.

Therefore the reference to Church of Christ, will not make the submission of Original/Certified copies along with the Plaint mandatory and it was only held that provisions of CPC are statutory.

Order XIII Rule 1 only speaks about originals of Documents already filed in the Plaint to be produced during Trial. Therefore Plaint filed without Original/Certified copies of the document cannot be rejected under order VII Rule 11 of CPC.

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