

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.3017 OF 2017
AND CMP NO.14190 OF 2017

The President and Bishop of Vellore Diocese
 The Diocese of Vellore (Catholic)
 No.34, Officers Line,
 Vellore.

... Petitioner

Vs.

1.Chinnakulandai
 K.P.Munucamy (Died)
 2.M.Somasundaram
 3.M.Renugambal
 4.M.Govindasamy
 5.Sampoornam
 6.Loganayagi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order passed in I.A.No.936 of 2016 in O.S.No.420 of 2005 dated 06.07.2017 on the file of the learned Additional District Munsif, Vellore.

For Petitioner : Mr.Xavier Arulraj
 Senior Counsel for Ms.A.Arul Mary

ORDER

This Civil Revision Petition is directed against the order passed in I.A.No.936 of 2016 in O.S.No.420 of 2005 dated 06.07.2017, by the learned Additional District Munsif, Vellore.

2. The first respondent / plaintiff sought to file certified copies of the settlement deed dated 19.03.1962; registered settlement deed dated 29.02.1984; and will dated 28.08.1986. Even at the time of filing the plaint on 06.06.2005, the plaintiff has stated that the settlement deeds as well as the will are partially damaged and undertake to produce the same at the time of trial. However, the present petition came to be filed with a statement that the will is completely damaged and seeking permission of the Court to receive the certified copies of the same. The Trial Court has allowed the petition holding that the defendants have not been prejudiced by marking of the said documents.

3. The learned Senior Counsel appearing for the petitioner would submit that the plaintiff having undertaken to produce the original

will at the time of trial, he cannot go back and the non production of the original will, will prejudice his rights. Now that the first respondent / plaintiff has produced the settlement deed, which was partially damaged along with the certified copy of the settlement deed and it is stated that the will is totally damaged and therefore, he could not be produced the original will.

4. As per Section 65(c) of the Indian Evidence Act, when the original document has been destroyed or lost, secondary evidence is admissible and accordingly, the Trial Court has permitted the first respondent / plaintiff to mark those documents. However, it is open to the petitioner / fourth defendant to raise objection, with regard to the relevancy of the documents, at the time of trial. This Court finds no infirmity in the order passed by the Trial Court / calling for interference. However, it is seen that the suit is of the year 2005, which is still pending. Therefore, a direction is issued to the learned Additional District Munsif, Vellore, to complete the trial, as expeditiously as possible, within a period of six months from the date of receipt of a copy of this order.

5. With the above observation and direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected civil miscellaneous petition is closed.

23.08.2017

Index : Yes/No
Internet : Yes/No
TK
To

The Additional District Munsif
Vellore.



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M.GOVINDARAJ, J.

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