

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE **PUSHPA SATHYANARAYANA**

C.R.P.P.D.No.783 of 2017  
and C.M.P.No.3883 of 2017

1. Kamatchi  
2. Pushpa

.. Petitioners

-Vs.-

S.Sudhakar

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 08.12.2016 made in I.A.No.959 of 2015 in O.S.No.216 of 2013 on the file of the I Additional Sub Court, Erode.

For petitioners ... Mr.R.Jayaprakash for  
Mr.M.Guruprasad

O R D E R

The plaintiffs are the revisions petitioners challenging the order in dismissing the application in I.A.No.959 of 2015 filed by them under Section 75 of the Civil Rules of Practice.

2. According to the revision petitioners, as they were away from the suit property, the respondent had encroached the suit property in the month of August 2012 and put up a compound wall and planted coconut trees without any right. Therefore, the suit is filed for declaration of title and possession of the suit property after removing the East-West compound wall. The suit is now taken up for trial and P.W.1 has been examined. It is stated by the petitioners that for the suit property in item number 51, layout approval was obtained by the owners of the plots from the Office of the Regional Senior Deputy Director of Town and Country Planning, Coimbatore and Nilgiris Region. The approved plan contains the actual measurements of each site number. The said approved plan will prove the case of the plaintiffs. Therefore, the application in I.A.No.959 of 2015 has been taken out to send for the original layout of the approved house sites relating to the suit property. The said application was dismissed by the trial Court holding that it is easier for them to apply for a certified copy of the approved plan from the authorities than demanding production of the original, which would convenience not only the authorities but also the other property owners. Aggrieved by the same, the above Civil Revision has been filed.

3. The learned counsel for the petitioners contended that instead of dismissing the application, the trial Court at least ought to have directed for the issuance of a certificate to the petitioners enabling them to get a certified copy from the Regional Senior Deputy Director of Town and Country Planning, Coimbatore and Nilgiris Region. In support of his contention, the learned counsel for the petitioners has placed reliance on a decision of this Court reported in **2015-2-L.W.460 [G. VENKATESAN - VS - BALU]**. The relevant portion is extracted hereunder:

*"6. A reading of the said prayer eliminating the spelling mistakes and grammatical mistakes, will give a meaning that as per the prayer the Assistant Commissioner of Income Tax, Vellore has to send for the document. From where? shall be the next question. The prayer should have been that the Court shall send for the documents from the Assistant Commissioner of Income Tax and not for a direction to the Assistant Commissioner to send for. Even otherwise, Rule 76 of Civil Rules of Practice does not contemplate an order sending for a document from a public officer other than a Court. It contemplates the issuance of a certificate to the applicant to enable him to obtain a certified copy from the appropriate authority. Rule 75 of the Civil Rules of Practice deals with the procedure for causing production of documents in the custody of a public*

*office other than a Court. In such a case, the proper procedure is to issue a summons to the public officer to produce the document and not to send for such a document from the public officer which shall be done in the case of a document in another Court, for which the appropriate rule shall be 74. In cases falling under Rule 74, no summons shall be issued and a letter of request in Form No.22 shall be issued, whereas in cases coming under Rule 75, a summons shall be issued to the public Officer for the production of the document. Rule 75 shall be resorted to only in cases wherein the party applying for such summons shall not be in a position to get the certified copy of the document from the public officer concerned. When certified copies can be obtained and the same will serve the purpose, the prayer should be made only under Rule 76 of the Civil Rules of Practice for the issuance of a certificate to enable him to get the certified copy. Only under one exceptional circumstance wherein the production of the certified copy will not serve the purpose and the production of the original itself shall be necessary for the perusal of the Court, despite the availability of the procedure under Rule 76, summons under Rule 75 can be issued. "*

4. In view of the above, this Court is of the view that the order of the trial Court shall be clarified as one directing issuance of a certificate under Rule 76 of the Civil Rules of Practice. It is clarified

that the prayer in this revision petition should be converted into one under Rule 76 of Civil Rules of Practice for the issuance of a certificate to the revision petitioners to enable them to get the certified copy of the original layout.

5. With the above said modification, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**03.03.2017**

srn

To

The I Additional Sub Judge,  
Erode.

**PUSHPA SATHYANARAYANA.J**

**srn**

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