

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2321 of 2018

Ramesh

... Petitioner

Vs

1. Dhanapal Naidu
2. Dhasarathan
3. Sampath

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, pleased to set aside the fair and decreetal order dated 14.12.2017 passed in I.A.No.1279 of 2016 in O.S.No.68 of 2012 on the file of the District Munsif Court, Chengalpattu.

For Petitioner : Mr.N.Paul Sunder Singh

For Respondents : Mr.N.Sivaprakash

ORDER

The plaintiff in O.S.No.68 of 2012 has come up with this revision challenging an order of the trial Court made in I.A.No.1279 of 2016,

seeking rejection of a document produced as Ex.A9, VAO Certificate, on the ground that the same is inadmissible in evidence being a photo copy.

2. The learned trial Judge had faulted the plaintiff for not filing a petition under Section 65 of the Evidence Act seeking permission to mark the photo copy of the document Ex.A9. I am constrained to point out that such a requirement is unknown to law. In order to enable production of secondary evidence a party is only required to show that the primary evidence is not available with him or it is in the custody of the opposite party. Section 65 of the Evidence Act, does not contemplate an application for the said purpose.

3. Coming to the case on hand, the plaintiff even in the plaint has stated that the VAO Certificate was obtained on 10.06.1998 for securing electricity connection and the same has been handed over to the Electricity Department. A perusal of the Certificate also shows that it is issued for the purpose of securing electricity connection for the house constructed by the plaintiff. Therefore, the plaintiff is entitled to produce the photo copy of the

same in evidence in this case. The trial court fell in error in concluding that an application is required for production of secondary evidence.

4. Therefore, the order of the trial Court made in I.A.No.1279 of 2016 in O.S.No.68 of 2012 on the file of the District Munsif Court, Chengalpattu is set aside and the marking of the document as Ex.A9 is sustained. The Civil Revision petition is therefore allowed. No costs.

28.10.2020

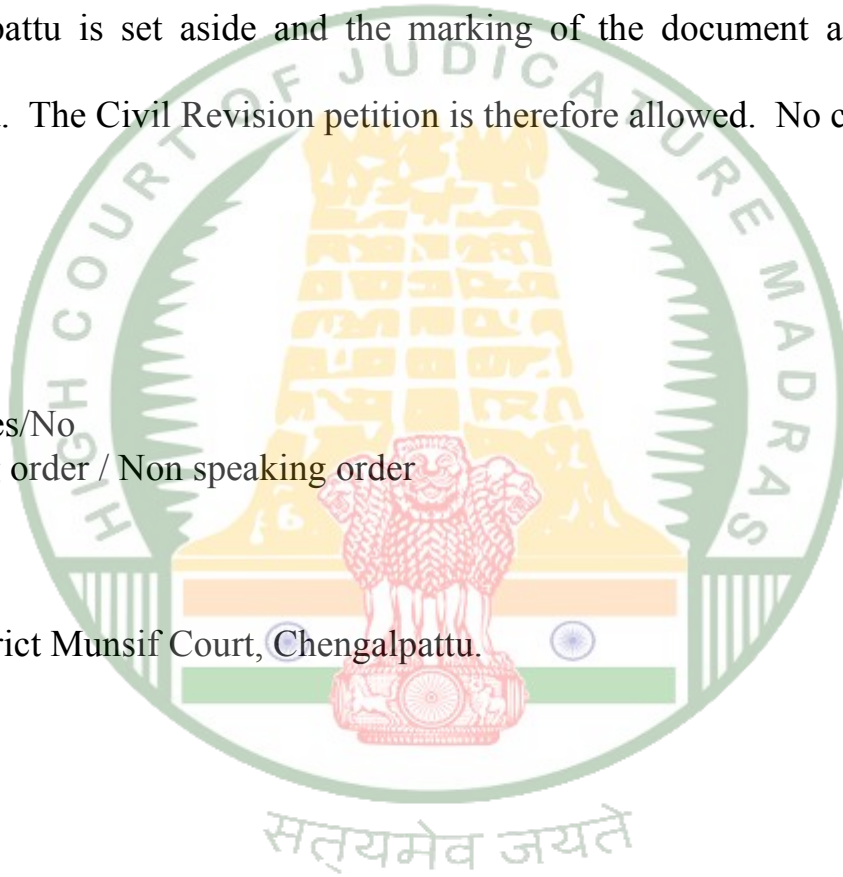
vum

Index: Yes/No

Speaking order / Non speaking order

To

The District Munsif Court, Chengalpattu.



WEB COPY

CRP (PD) No.2321 of 2018

R.SUBRAMANIAN, J.

vum



CRP (PD) No.2321 of 2018

WEB COPY

28.10.2020