

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2905 of 2018

and

C.M.P.No.17021 of 2018

Revathy

.. Petitioner

Vs.

V.Chandra

.. Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, placed to set aside the order and decretal order passed by the learned District Munsif at Tambaram in I.A.No.1069 of 2017 in O.S.No. 352 of 2007 dated 07.03.2018 for mark the adangal extract as Exhibits and allow this Civil Revision Petition.

For Petitioner : Mr.M.Rajasekhar

For Respondent : Mr.Thiyagarajan

ORDER

This Civil Revision Petition is at the instance of the 9th defendant in O.S.No.352 of 2007, challenging the order of the trial Court in I.A. No.1069 of 2019 in O.S. No.352 of 2007, refusing permission to mark

certain documents. The learned trial judge rejected the application on the ground that certified copies were not filed certified as “true copies” as required under Section 74 of the Evidence Act.

2. I have heard Mr.Rajasekar, learned counsel for the petitioner and Mr.Thiyagarajan learned counsel for the respondent.

3. The controvercy is regarding the validity of the documents obtained by the petitioner through RTI. Those documents were not certified as “true copies” as per the procedure contemplated under Section 76 of the Evidence Act. The trial Court on that ground rejected the documents.

4. Mr.Rajasekhar, the learned counsel appearing for the petitioner would vehemently contend that since copies were issued by an Authority who was authorised to issue copies, the trial Court erred in rejecting those documents. He would also rely upon Section 65 of the Evidence Act in support of his contention that copies of the documents could be received as Secondary Evidence. He would also draw attention of this Court to the

definition of “Prescribed Authority” and “Public Authority” under Section 2 of Right to Information Act. He would also rely upon the Judgement of Madhya Pradesh, High Court, which dealt with the aspect of producing copies of the document as Secondary Evidence as per Section 65 of the Evidence Act. The next decision relied upon by the learned counsel is also in respect of similar view which was taken by the Andhra Pradesh High Court.

5. The question does not pertain to issuance of a copy under the RTI Act. The question relates to the power of the court to admit the documents under Section 74 of the Evidence Act. Section 74 of the Evidence Act provides that certified copies of public documents issued by an authority authorised to issue copies should be endorsed as “true copy”. In the absence of such certification, Section 77 of the Evidence Act would not stand attracted. Section 65 provides that a Public document can be produced as Secondary evidence, which is admissible under Section 76 of Indian Evidence Act.

6. In the present case, the documents were not certified under Section 74 of the Evidence Act and therefore, the learned trial Court is right in rejecting the documents in terms of Section 76 of Evidence Act. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It will be open to the petitioner to get duly certified copies of the documents and produce the same before the trial court. The trial court shall grant reasonable time to the petitioner to produce such certified copies.

23.11.2020

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Internet: Yes/No
Index: Yes/No

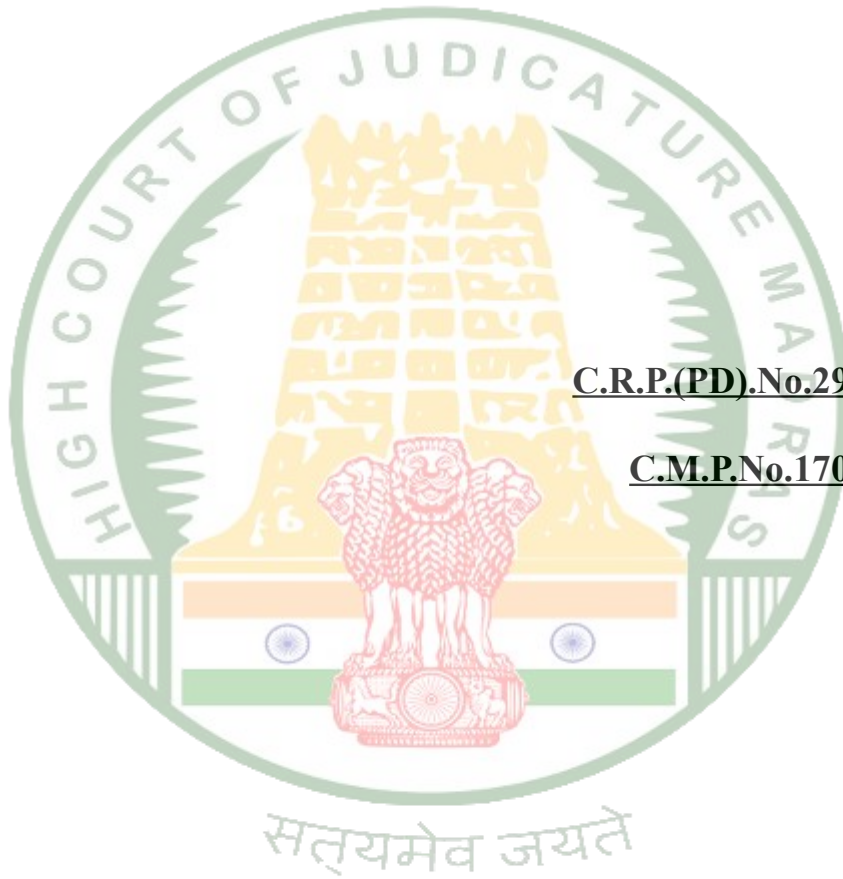
To

The learned District Munsif,
Tambaram.

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R.SUBRAMANIAN, J.

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