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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2210 of 2021

and

C.M.P.No.16742 of 2021

1. Smt. S.V.M. Seyed Ali Fathima
2. Mr. S.M.M. Sultan Ibrahim ... Petitioners/Defendants 2,3

Vs

1. Mrs. S.M.M. Seyed Ali Fatimamal ...1st Respondent/Plaintiff
2. S.M.M. Ameer Ali ...2nd Respondent/1st Defendant
3. Mr. Zaheeruddin ...3rd Respondent/4th Defendant

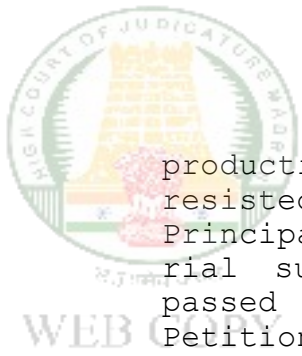
PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the C.R.P. and set aside the Fair and Decreetal Order passed in I.A. No. 781 of 2019 in O.S. No. 161 of 2010 dated 05.02.2021 by the Principal Sub Ordinate Judge at Ponneri.

For Petitioners : Mr. K.Venkateswaran

O R D E R

This Petition has been filed challenging the order passed in I.A. No. 781 of 2019 in O.S. No. 161 of 2010 passed by the Learned Principal Subordinate Judge, Ponneri on 05.02.2021.

2. I.A.No.781 of 2019 was filed by the First Respondent/Plaintiff for issuing summon for the attendance of a official from Madhavaram Taluk Office to produce Town Survey Field Register Extract in Old Survey No.16/1B1C2 part and New Survey No.43, Ward 1, Block 1, Madhavaram Taluk and Tiruvallur District and give evidence. The affidavit filed along with this Application shows that the First Respondent filed the suit for partition. It is alleged that she has the copy of the Town Survey Field Register Extract for Old Survey No.16/1B1C2 part and New Survey No.43, Ward 1, Block 1, Madhavaram Taluk and Tiruvallur District, wherein her name is shown as one of the co-owners of the suit property. She is not in possession of the original. Therefore, copy cannot be marked as exhibit. In the said circumstances, she prays for summoning the official for



production of documents for giving evidence. This Petition was resisted by the Petitioners before the Lower Court. The Learned Principal Subordinate Judge Judge, Ponneri on considering the rial submissions allowed the Application. Against the order passed in allowing I.A. No 781 of 2019, this Civil Revision Petition is preferred.

3.The Learned Counsel for the Petitioners submitted that the First Respondent has not whispered about this document either in the plaint or during the examination. When she has copy of the aforesaid document, why she was not in possession of the original. Moreover, she could have obtained the certified copy of the above said document and can produce the certified copy in the Court. It is not necessary to summon the official for the production of Town Survey Field Register Extract.

4.Considered the submissions of the Learned Counsel for the Petitioners and perused the records.

5.This is a suit for partition. The First Respondent claims that in the Field Register, she is shown as co-owner of the suit property. She has only the copy of the Town Survey Field Register Extract of the suit property. Therefore, she wants to summon the official from Madhavaram Taluk Office. Merely because the First Respondent has not pleaded about this document in her plaint or in evidence, she cannot be prevented from producing the document in support of the case, especially when the case is pending for examination of witnesses on her side. With regard to summoning the official from the Madhavaram Taluk Office, this Court finds some force in the argument of the Learned Counsel for the Petitioners.

6. Rule 75 of the Civil Rules of Practice deals with production of records in the custody of public officer other than a Court. Rule 75(3) of the Civil Rules of Practice says that no Court shall issue summon to a public officer unless it consider the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not been granted.

7. In the case before hand, it is not known as to whether the First Respondent has made any application to get the certified copy of the Town Survey Field Register Extract from the concerned official. Therefore, the order of the Learned Principal Subordinate Judge, Ponneri is modified to the effect that the First Respondent may apply for getting certified copy of the Town Survey Field Register Extract relating to suit property from the concerned authorities and produce the certified copy to the Court. On such production, the certified copy may be received as evidence from the First Respondent. If



the First Respondent is not able to get the certified copy, the Learned Principal Subordinate Judge, Ponneri is directed to summon the official from the Madhavaram Taluk Office for production of document as detailed in the Application.

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8. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The Principal Sub Ordinate Judge,
Ponneri.

+1cc to M/s.K.Venkateswaran, Advocate Sr.52992

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