



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.2072 of 2021

B.Muthupandi .. Petitioner/11th Petitioner/
11th Plaintiff

-vs-

1.The Madurai City Municipal Corporation,
Through its Commissioner,
Anna Maligai, Melur Road,
Madurai. .. 1st Respondent/Respondent/
Defendant

2.A.Ramu
3.Muthammal
4.P.Palpandi
5.P.Kannan
6.Periyasamy
7.P.Ganesan
8.P.Chinnasamy @ Pandi
9.P.Karuppiyah (Died)
10.P.Sundar
11.M.Bose
12.B.Ramesh
13.B.Sathishkumar
14.B.Chinnan
15.Gowsalya
16.Minor Gayathri
17.Minor.Manikandaprabhu
18.Minor Saranya

.. Respondents 2 to 19/
Petitioners 1 to 10 & 12 to 19/
Plaintiffs 1 to 10 & 12 to 19

Prayer :- Petition filed under Article 226 of the Constitution of India to set aside the order dated 22.10.2021 passed in the application in I.A.No.530 of 2021 in O.S.No.767 of 2004 on the file of the Principal District Munsif Court, Madurai Town so far as the direction to obtain certified copies of the marked exhibits.

For Petitioner : Mr.J.Barathan

For R1 : Mr.K.K.Kannan,
Standing Counsel



ORDER

This revision is filed challenging the order dated 22.10.2021, passed by the learned Principal District Munsif, Madurai, directing the petitioner to take a return of Ex.A1 to Ex.A54 after obtaining certified copy of the same and on an undertaking.

2. Learned Standing Counsel for the 1st respondent has no objection to the exhibits being handed over without obtaining the certified copy of the same.

3. Learned counsel for the petitioner would submit that most times, the procedure contemplated under Order XIII Rule 9 of the Civil Procedure Code (for brevity "CPC"), pertaining to the return of the documents admitted in evidence, is not being followed. Therefore, this Court is called upon to make observations on the same.

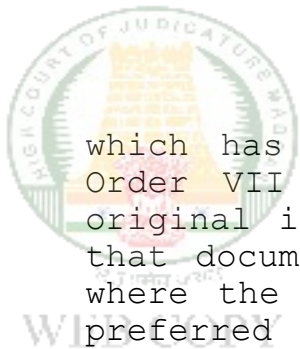
4. Order XIII CPC relates to the procedure for the production, impounding and return of documents. Rule 1 talks about the production of the original documents at or before the settlement of issues.

4.1. Rule 7 talks about the admission of the documents in evidence and the return of the rejected documents.

4.2. Rule 7(1) provides that where a document is admitted in evidence or a copy of the original is substituted as contemplated under Rule 5, then such documents would form part of the records. The documents which are not admitted in evidence and which does not form part of the record shall be returned to the persons who have produced them.

4.3. Rule 8 talks about the impounding of documents.

4.4. Rule 9 is the provision, which permits the return of documents, which have been admitted under Order VII Rule 13. Order XIII Rule 9 provides that any person whether he is a party to the suit or not, who desires to receive back the admitted documents, is entitled to receive the same providing the document is not impounded under the provisions of Rule 8. The return is contemplated under two contingencies viz., (a) whether the suit is one where there is no provision for appeal and the suit is disposed of; and (b) whether there is an appeal allowed against the judgment and decree and the Court is satisfied that despite the time for filing an appeal has lapsed, the appeal has not been preferred or the appeal if preferred has been disposed of. Proviso to Rule 1 provides that a document may be returned at an earlier point if (a) the person applying for the document delivers to the proper officer, the documents to be substituted for the original document of which a return is sought for; (b) in a case of a party to the suit, a certified copy of the same shall be produced and in all other cases, an ordinary copy



which has been examined and certified in the manner provided in Order VII Rule 17(2), along with an undertaking to produce the original if so required. Therefore, a reading of Rule 9 provides that document admitted in evidence can be taken return of in case where the suit has been disposed of and where no appeal has been preferred or where an appeal has been disposed of. The proviso provides the procedure where documents are sought to be taken return of before the disposal of the suit or before disposal of the appeal. In such a contingency, the documents, which are sought to be taken return of, should be substituted with a certified copy in case of a party to the suit and in other cases, by copy as provided in the Order VII Rule 17(2) CPC and an undertaking is also required to be taken to produce the original as and when required. Therefore, a substitution of the original as a certified copy and an undertaking is contemplated only in cases where the return of document is taken when the suit is pending disposal or the appeal is pending disposal. In case where the suit and appeal disposed of, the substitution of the document with its certified copy and undertaking is not contemplated under the provisions of Order XIII Rule 9 CPC.

5. In view of the fact that the learned Standing Counsel for the 1st respondent has no objection to the exhibits being handed over and since no appeal has been preferred, the documents shall be returned without obtaining the certified copy of the same. This Civil Revision Petition is allowed and the learned Principal District Munsif, Madurai, is directed to handover the exhibits without insisting on the certified copy of the same and on an undertaking. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To

The Principal District Judge,
Madurai.

WEB COPY

+1 CC to M/s.K.K.KANNAN, Advocate (SR-40310[F] dated 23/12/2021)

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-40276[F] dated 23/12/2021)

C.R.P.(PD) (MD) No.2072 of 2021

Dated: 23.12.2021

MGJ(10.01.2022) 4P 4C