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C.M.P.No.12209 of 2022

in

S.A.No.659 of 2020

P.T.Asha, J.

The above application is filed for permitting the petitioner to take return of Ex.B.4 to Ex.B.7, which are Construction agreement, Agreement of sale, Construction agreement (All dated 23.12.2003) and letter dated 12.01.2004 addressed to one Krishnamohan Shastry and substitute the same with certified copies of the said documents.

2. In the affidavit filed in support of the said application, the deponent would state that he requires the document for mortgaging the same to rise funds for his mother's treatment.

3. The 1st respondent has filed a counter inter alia contending that Ex.B.7, which is one of the document that is now sought to be substituted is a fabricated document created by the petitioner and if the same is handed over back to the petitioner, she would sell away the property and this would cause great prejudice to the 1st respondent / plaintiff as these



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documents are necessary to adjudicate the issue involved in the Second Appeal. The learned counsels of either side have also made submissions.

4. The suit in question is one for declaration that the area marked green in the rough sketch is designated as a common two wheeler parking slot available for the residents of Subham Villa Apartment, to declare Car Parking allotment letter dated 12.01.2004, which is alleged to have been issued by the partner of the M/s.Savithri Constructions as a fabricated one and to declare the unregistered supplementary agreement dated 13.01.2004 as un enforceable and not binding on the plaintiff and for a permanent injunction.

5. The suit was decreed and the same was taken on appeal and the Appellate Court had reversed the Judgement and Decree of the Trial Court, against which the present Second Appeal is filed.

6. Considering the fact that the documents in question are being substituted by certified copies of the said documents, which have been obtained by the Court, the said application can be allowed since any right that flows under these document will be subject to the ultimate result of



the Second Appeal and therefore no prejudice would be caused to the plaintiff. However, it is made clear that as and when the Court demands production of the original, the same shall be produced by the petitioner before this Court. The petition is allowed with these observations.

17.08.2022

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