



C.R.P(NPD).No.2459 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.2459 of 2022

Sounthar

...Petitioner

..Vs.

Muthu

..Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India against the order of the learned District Munsif, Dharmapuri, dated 20.04.2022 made in A.R.D.No.32 of 2021 in O.S.No. 120 of 2015.

For Petitioner	: Mr.N.Manoharan
For Respondent	: Mr.P.Valliappan for M/s.P.V.Law Associates

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Dharmapuri, dated 20.04.2022 made in A.R.D.No.32 of 2021 in O.S.No.120 of 2015.

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2.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the entire materials available on record.

3.The respondent/plaintiff filed the suit in O.S.No.120 of 2015 for the relief of bare injunction against the revision petitioner and four others. The said suit was dismissed on 06.12.2019. Subsequent to the dismissal of the suit and during the pendency of the appeal filed by the plaintiff, the revision petitioner, who is the 3rd defendant, had filed a petition in A.R.D.No.32 of 2021 for return of the documents marked as Exs.B1 and B2. However, the said petition was dismissed by the impugned order. Aggrieved over that, the petitioner has preferred this revision petition.

4.The learned counsel for the petitioner submitted that the sale deed in respect of the suit property standing in his name and the patta in his name were marked as Exs.B1 and B2 respectively; the suit has been



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filed by the respondent/plaintiff for the relief of bare injunction; he had claimed possession over the suit property and admittedly, the respondent/plaintiff did not dispute the title of the petitioner/third defendant in the suit property; however, the application preferred by the petitioner/third defendant seeking return of the said two documents was dismissed by the impugned order; and further, the appeal preferred by the respondent/plaintiff by filing A.S.No.13 of 2022 before the Principal Subordinate Court, Dharmapuri came to be dismissed on 25.7.2022;

5.Even, for the sake of arguments, if it is presumed that an appeal is pending against the judgment of the Trial Court, that will not preclude the parties to the suit to get back the documents for the reasons best known to them by substituting the documents with copies, unless the title to the property itself is in dispute. Further, even if the title is disputed, certified copies of the documents can be produced for valid reasons.

6.The petitioner/third defendant had stated that he is in need of the



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documents for the purpose of handing the same to his buyer, who had purchased the property from him. Since the validity of Exs.B1 and B2 was not challenged and that is not the issue that has arisen in the suit, return of the documents to the revision petitioner on conditions will not prejudice the interest of the respondent/plaintiff.

7.As per the Order XIII Rule 9 of the Civil Procedure Code, the petitioner/third defendant is entitled to get back the documents by substituting them with certified copies. The said provision enables the parties to seek for return the documents even during the pendency of the proceedings. In the case on hand, the appeal in A.S.No.13 of 2022 was also dismissed. Hence there is no difficulty to return the documents. Accordingly, the impugned order of the learned trial Judge is liable to be set aside.

8.In view of the above, this Civil Revision Petition is allowed and



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the order of the learned District Munsif, Dharmapuri dated 20.04.2022
made in A.R.D.No.32 of 2021 in O.S.No.120 of 2015 is hereby set aside.

No costs.

30.08.2022

vkf

Index:Yes No

Speaking Order:Yes/No

To

The District Munsif, Dharmapuri.



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R.N.MANJULA,J.

Vkr

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