



CRP(PD)(MD)No.1270 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**CRP(PD)(MD)No.1270 of 2022**

**and**

**C.M.P.(MD)No.5220 of 2022**

M.Lakshmi

... Revision Petitioner

versus

1. Natarajan
2. Paapaal
3. Thiruchelvam
4. Balasubramani
5. Kanagavali
6. The District Collector,  
Sivagangai District.
7. The Tahsildar,  
Devakottai,  
Sivagangai District.
8. The Sub Collector,  
Devakottai,  
Sivagangai District.

... Respondents



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Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 25.04.2022 passed in I.A.No.13 of 2022 in O.S.No.45 of 2013 on the file of the District Munsif, Devakottai.

For Revision Petitioner : Mr.J.Anandkumar

### **ORDER**

This Civil Revision Petition is filed against the order dated 25.04.2022 passed in I.A.No.13 of 2022 in O.S.No.45 of 2013 on the file of the District Munsif, Devakottai.

2. The revision petitioner is the plaintiff in O.S.No.45 of 2013 on the file of the District Munsif, Devakottai. He filed an interlocutory application in I.A.No.13 of 2022 under Rules 75 and 76 of Civil Rules of Practice for direction to summon the production of records which is in custody of Public Officer, namely, the Village Administrative Officer, Periakarai. The learned District Munsif, Devakottai, by order dated 25.04.2022, dismissed the said application stating that a party



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could himself produce any document from the public office, by obtaining the certified copy of the same and when the application filed for certified copy has been refused, then only, the Court may issue summons to examine such witness and there is no proof that the application for certified copy was filed and it was refused. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the revision petitioner submits that the document sought to be produced is FMB, 'A' Register in S.No.75/19, which will not be easily available and therefore, the said application was filed under Rules 75 and 76 of the Civil Rules of Practice. The learned trial Judge, without considering the reasons adduced in the application, has mechanically dismissed the said application. The learned counsel for the revision petitioner has also relied upon the orders of this Court passed in CRP(PD)Nos.195 of 2019 and 125 of 2021 dated 23.06.2021, wherein, this Court has held as follows:



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“14. It is the contention of Mr.P.Prabakar, learned counsel for the respondent in CRP(PD)No.125 of 2021 that necessary reasons regarding the relevancy of the said documents has been stated in the affidavit filed in support of I.A.No.675 of 2019. However, it is stated in unison by both the learned counsels that the learned Judge had not stated or had not given any finding whether the documents sought to be produced are actually relevant to determine the issues in the suit. That is the nature of the order required to be passed in an application under Rule 75 of the Civil Rules of Practice. The learned Judge should examine first whether the documents had been properly described. Then he should examine whether the documents are relevant to the issues in the suit and later he should also examine whether certified copies of the documents had been applied and whether the Court should orders summoning the documents from the Public Officer.

15. It would only be appropriate that the matter is remanded back to Sub Court, Kangayam with a specific request to the learned Judge to give a definite finding whether the documents sought to summoned under Rule



75 of the Civil Rules of Practice are relevant to determine the issues in the suit. It is the onus of the plaintiff and the first defendant to speak about relevancy and non relevancy of the documents.”

4. This Court considered the submissions of the learned counsel for the revision petitioner and also perused the order passed by the trial Court.

5. The revision petitioner is the plaintiff and he filed the above suit for declaration and for permanent injunction with regard to the suit schedule property. The 5<sup>th</sup> defendant has filed a written statement and has not disputed the identity of the property. The plaintiff/revision petitioner has filed an application in I.A.No.12 of 2021 in O.S.No.45 of 2013 to call for the Settlement Field Register (SFI) regarding Survey No.75/2019. The trial Court, by order dated 20.12.2021, rejected the application. Aggrieved over the same, the revision petitioner has filed another Civil Revision Petition before this Court in CRP(PD)(MD)No.



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973 of 2022. This Court, by order dated 27.04.2022, dismissed the said Civil Revision Petition with an observation that if the document is necessary, he can very well get the certified copy and file it in the suit even at the time of filing itself. Thereafter, the revision petitioner has filed another interlocutory application in I.A.No.13 of 2022 under Rules 75 and 76 of Civil Rules of Practice for summoning the Village Administrative Officer, Periakarai, to depose the evidence in Survey No.75/19, FMB, “A” Registrar etc. The learned District Munsif, Devakottai, vide order dated 25.04.2022, dismissed the said interlocutory application, by observing that when the party could himself produce any document from the public office, summoning of the public officer shall not be done and when the application for certified copy has been refused, then only, the Court may issue summons to examine such witness and there is no proof that the application for certified copy was filed and it was refused. Aggrieved over that, the present Civil Revision Petition is filed.



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6. On perusal of the decision relied upon by the learned counsel for the revision petitioner (cited above), this Court has held that while dealing with the application filed under Rule 75 of the Civil Rules of Practice, the nature of order is required to be passed in that application, viz.(i) whether the documents had been properly described; (ii) whether the documents are relevant to the issue in the suit; (iii) whether the certified copy of documents had been applied; (iv) whether the Court should order summoning for documents from the public office and (v) Whether the documents sought to be summoned under Rule 75 of Civil Rules Practice are relevant to determine the issue in the suit and it is onus of the plaintiff and first defendant to speak about relevancy and non relevancy of the documents.

7. The grievance of the revision petitioner is that certain revenue documents are necessary for adjudication of trial and therefore, he filed interlocutory applications in I.A.Nos.12 of 2021 and 13 of 2022, however, both the applications were dismissed by the trial Court.



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8. For production of revenue documents, there is no necessity for the Village Administrative Officer, Periakarai, to be summoned for evidence. It is always open to the revision petitioner to obtain certified copies of the revenue documents from the concerned authority and mark the same before the trial Court. The question of summoning the revenue officials would arise, when the application filed for certified copy of the documents is refused. Therefore, the learned District Munsif, Devakottai, has rightly dismissed the said application and no interference is required in this case.

9. Accordingly, the Civil Revision Petition is dismissed with liberty to the revision petitioner to apply for the certified copy of the revenue documents from the concerned authority and can mark the same before the trial Court.



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10. Considering that the suit is of the year 2013, the learned District Munsif, Devakottai, shall conclude the trial, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**30.06.2022**

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Index : Yes / No

Internet: Yes / No

To

The learned District Munsif,  
Devakottai.



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**B.PUGALENDHI, J.**

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