



CRP(PD)(MD)No.2294 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.2294 of 2022

1.Pandi

2.Thiyagarajan

... Petitioners

Vs

Balamurugan

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 17.08.2022, passed by the learned Additional District Judge, Paramakudi in unnumbered Interlocutory Application in I.A.No. of 2022 in A.S.No.37 of 2021 and further for a direction directing the learned Additional District Judge, Paramakudi to number the Interlocutory Application and proceed the same on merits for adjudication.

For Petitioners : Mr.T.Lajapathi Roy



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ORDER

This Civil Revision Petition is filed as against the docket order passed by the learned Additional District Judge, Paramakudi in unnumbered Interlocutory Application in I.A.No. of 2022 in A.S.No. 37 of 2021, dated 17.08.2022.

2.The petitioners are the defendants 3 & 4 in O.S.No.27 of 2018 on the file of the Sub Court, Paramakudi and the same was dismissed, as against which, the respondent /second plaintiff filed an appeal in A.S.No.37 of 2021, before the Additional District Court, Paramakudi and the same is pending. Pending the appeal, the petitioners filed an application under Section 151 of Civil Procedure Code for return of their document, which was marked as Ex.B4 before the trial Court. The first Appellate Court dismissed the application on the ground that the appeal is pending. Aggrieved over the same, the present Civil Revision Petition is filed.



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3.The learned counsel appearing for the petitioners submits that though the petitioners are prepared to substitute the document Ex.B4 by way of a certified copy, the first Appellate Court has mechanically dismissed the application. Hence, a suitable direction may be issued to the learned Additional District Judge, Paramakudi for return of the above document.

4.Heard the learned counsel appearing for the petitioners and also perused the materials placed on record.

5.Admittedly, as against the judgment and decree passed by the learned Subordinate Judge, Paramakudi in O.S.No.27 of 2018, dated 20.01.2021, the second plaintiff preferred an appeal in A.S.No.37 of 2021 before the Additional District Court, Paramakudi and the same is still pending. Pending the appeal, the petitioners, who are the defendants in the above suit have filed an application for return of



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document Ex.B4, which was rejected by the first Appellate Court, on the ground that the appeal suit is pending. The grievance of the petitioners is that though they are ready to substitute the document Ex.B4 by way of a certified copy, the first Appellate Court dismissed the application. It is an admitted fact that the appeal suit in A.S.No.37 of 2021 is still pending. It is not known how far the document is essential for the first Appellate Court in deciding the appeal suit. Hence, this Court is not inclined to interfere with the order of the first Appellate Court in rejecting the claim of the petitioners.

6.In view of the above, this Civil Revision Petition is dismissed. However, there shall be a direction to the learned Additional District Judge, Paramakudi to dispose of the Appeal Suit in A.S.No.37 of 2021, within a period of three months from the date of receipt of a copy of this order. After the disposal of the Appeal Suit, the petitioners are at liberty to file a necessary application for return of the document



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and on such application, the same shall be considered by the first

Appellate Court positively. No costs.

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Index : Yes / No.

Internet : Yes / No.

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To

The Additional District Court, Paramakudi



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B.PUGALENDHI, J.

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Order made in
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