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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2023

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THE HONOURABLE DR.JUSTICE D.NAGARJUN

Civil Revision Petition (PD) No.545 of 2023

Dr.S.Socrates

... Petitioner

VS

1.Mr.Rangasamy

2.Mrs.R.Vijayalakshmi @ Viji Babu

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 13.12.2022 passed in G.No.7244 of 2022 in O.S.No.53 of 2021 on the file of the Court of Principal District Judge, Chengalpattu and direct the Court of Principal District Judge, Chengalpattu to issue certified copies of the documents viz., (i)Plaint filed in O.S.No.53 of 2021, (ii) Legal Notice dated 28.12.2020, (iii) reply dated 06.01.2021 (iv) Rejoinder Notice dated 18.01.2021 to the petitioner.

For Petitioner : Mr.R.Gothama Narayanan

**ORDER**

This Civil Revision Petition is filed aggrieved by the orders passed by the learned Principal District Judge, Chengalpattu in G.No.7244 of 2022 in O.S.No.53 of 2021 dated 13.12.2022.

2.The facts in brief which necessitated the petitioner to prefer this revision, are as under:

The revision petitioner claims to be the owner of the piece of land to an extent of 1365 sq.feet in S.No.203/9A2, T.S.No.9/3A situated at Zamin Pallavaram Village, Pallavaram Taluk, Chengalpattu District. While so, the second respondent by name Mr.Ravichandran has obtained a patta from the concerned Tahsildar in his name and in the name of his brother in respect of the same property allegedly, belonging to the petitioner on the ground that the said property was inherited by them from their grandfather. The grant of said patta was also confirmed by the Assistant Settlement Officer. Aggrieved by the same, the petitioner said to have preferred an appeal and the same is pending. Subsequently, the second respondent and his brother have also executed the Sale Deeds in favour of one Ms.Shanmuga Priya. The petitioner herein has filed a suit in O.S.No.54 of 2020 on the file of the learned District Munsif, Alandur



seeking the relief of permanent injunction restraining Ms.Shanmuga Priya from raising any construction. Though *status-quo* order was passed, the said Ms.Shanmuga Priya has raised construction and thereby the petitioner has filed an application for amendment seeking declaration and also for recovery of possession.

3.One Mr.T.Rangasamy, the father of Ms.Shanmuga Priya has filed OS.No.53 of 2021 on the file of learned Principal District Judge, Chengalpet, wherein, the said Rangasamy has averred that one Ravichandran, the second respondent herein and Ms.Shanmuga Priya have spent huge money for obtaining patta in their favour and in the said suit, the correspondence between the Ravichandran, the second respondent and Ms.Shanmuga Priya has also been filed, making allegations and counter allegations in respect of the corrupt practices used for obtaining patta.

4.The petitioner herein has challenged the illegality of issuance of patta in favour of the second respondent, before the revenue authorities and in order to prove his contentions, the averments made in the plaint in OS.No.53 of 2021 and the documents filed therein are relevant and thereby, sought for providing certified copies of the following documents, viz.,



- (i)Plaint filed in O.S.No.53 of 2021,
- (ii) Legal Notice dated 28.12.2020, issued by Mr.Raghu Raj, Advocate, to Mrs.Vijayalakshmi and Mr.P.R.Ravichandran
- (iii) Reply dated 06.01.2021 sent by Mr.P.R.Ravichandran to Mr.Rangasami and others
- (iv) Rejoinder Notice dated 18.01.2021 issued by Mr.Raghu Raj, Advocate to Mr.P.R.Ravichandran.

However, the learned Principal District and Sessions Judge, by way of docket order dated 22.11.2022 has rejected the application by holding as under:

"Suit survey number and petition mentioned survey number are not one and the same. Parties in the suit is not the petitioner herein. The relationship is also not proved document. Hence copy application cannot be granted. This application is rejected."

5.Aggrieved by the same, the petitioner has filed the present Revision Petition.

6.The learned counsel for the petitioner has submitted that as long as he has complied with the requirements of Section 128(5) of Civil Rules of Practice, he is entitled for seeking certified copies of the documents, as he intends to



prove his case, which is filed by him before the revenue authorities for setting aside the grant of patta in favour of the second respondent.

7.I have perused the entire records including the copy application filed under Section 128(5) of Civil Rules of Practice and the written endorsements made and also the impugned orders passed by the by the learned Principal District and Sessions Judge, Chengalpattu.

8.Section 128(5) of Civil Rules of Practice runs as under:

"In cases where it is doubtful whether the document of which a copy is applied for is one for which a copy can or ought to be granted and in all cases, where the applicant is not a party to the suit or proceedings, the application shall be placed before the Judge who shall decide whether it should be granted or refused. If the application is refused by the Judge, it shall be returned to the applicant with the order of the Judge endorsed thereon."

9.On considering the above Rule, it is clear that the Court is expected to furnish the certified copies to the third parties whenever a third party makes out a case that the documents are required for considering in other proceedings. The only ground on which the learned District Judge seems to have declined to provide certified copies is that the suit survey number and the



petition survey number are not one and the same and the parties in the suit are not the petitioner herein.

10. Section 128(5) of Civil Rules of Practice will be invoked only when the person who is not a party to the suit, or other proceedings. The reason explained by the petitioner in the petition filed under Section 128(5) of Civil Rules of Practice is that the second respondent herein has obtained patta from the Tahsildar erroneously, which actually was standing in the name of the petitioner. The petitioner is challenging the said proceedings in the other forum and the documents filed in the suit are stated to be relevant. When the petitioner wants to prove his case in other proceedings certainly, the petitioner is entitled to obtain those documents so that truth otherwise of issue involved in the other proceedings can be resolved effectively. The reason offered by the learned District Judge for declining to issue certified copies under Section 128(5) of Civil Rules of Practice is not convincing. Further, there is nothing on record which goes to show that providing certified copies to the revision petitioner would cause prejudice to the parties to the suit. Considering the above, it is clear that there is nothing to conclude that the petitioner is seeking the documents not for *bona fide* purpose.



11. The learned counsel for the petitioner has submitted an authority reported in (2020) 4 SCC 702 in the case of “**Chief Information Commissioner Vs. High Court of Gujarat and another**”. Paragraph no.26 of the said judgment is extracted as under:

26. Rule 151 of the Gujarat High Court Rules, 1993 requires a third party applicant seeking copies of documents in any civil or criminal proceedings to file an application/affidavit stating the reasons for which those documents are required. As such, the High Court Rules do not obstruct a third party from obtaining copies of documents in any court proceedings or any document on the judicial side. It is not as if the information is denied or refused to the applicant. All that is required to be done is to apply for the certified copies with application/affidavit stating the reasons for seeking the information. The reason insisting upon the third party for stating the grounds for obtaining certified copies is to satisfy the court that the information is sought for bona fide reasons or to effectuate public interest. The information is held by the High Court as a trustee for the litigants in order to adjudicate upon the matter and administer justice. The same cannot be permitted by the third party to have access to such personal information of the parties or information given by the Government in the proceedings. Lest, there would be misuse of process of court and the information and it would reach unmanageable levels. If the High Court Rules framed under Article 225 provide a mechanism for invoking the said right in a particular manner, the said mechanism should be preserved and followed. The said mechanism cannot be abandoned or discontinued merely because the general law – RTI Act has been enacted.



12. Considering the observation made by the Hon'ble Apex Court that even if there is an alternative remedy for the petitioner to call for these documents by filing an appropriate application in the proceedings pending before the Tribunal, the application filed under Section 128(5) of Civil Rules of Practice cannot be declined.

13. In view of the above discussion, the Revision Petition is allowed. The learned Principal District Judge, Chengalpattu is directed to comply with the copy application passed vide G.No.7244 of 2022 dated 13.12.2022 in O.S.No.53 of 2021 by the petitioner as per the procedure within a period of two weeks from the date of receipt of a copy of this order. Registry is directed to return the original copy application in case, if it is filed, on substituting the photo copy. No costs.

13.04.2023

Index:yes/no

Internet:yes

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To

1. The Principal District Judge, Chengalpattu



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DR.D.NAGARJUN., J.

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