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C.R.P.No.1041 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

C.R.P.No.1041 of 2023
and C.M.P.No.7456 of 2023

M.Ramasamy (died)
1.R.Chinnusamy
2.Ramya

... Petitioners

Vs.

Sengottaiyan
1.S.Nallasamy
2.Akilandeeswari

... Respondents

PRAYER:-Civil Revision Petition filed under Article 227 of the Constitution of India against fair and decreetal order dated 13.02.2023 passed in I.A.No.09 of 2022 in O.S.No.326 of 2016 by the II-Additional District Munsif Court, Erode.

For Petitioner : Ms.R.Sashe
for Mr.M.Guruprasad

ORDER

This Civil Revision Petition has been filed to set aside the order, dated 13.02.2023 made in I.A.No.09 of 2022 in O.S.No.326 of 2016, by the II-Additional District Munsif Court, Erode.



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2. The suit in O.S.No.750 of 2007 was filed for permanent injunction. It was filed by the petitioners to restrain the respondents from trespassing into the suit scheduled properties and not to disturb the peaceful possession of the same. The petitioner herein purchased the 2nd item of the suit scheduled property from his father on 20.04.2007 vide registered Sale deed in R.S.No.481/9, reassigned as R.S.No.1004/28 and the respondents holds their property in R.S.No.1004/26 which is east and south of the 1st item of the suit scheduled property. The 1st respondent and his deceased father attempted to trespass into the suit scheduled property and hence, the petitioners were constrained to file the O.S.No.750 of 2007 before the District Munsif Court, Erode.

3. The suit was decreed in favour of the petitioners herein and was registered as Document No.3374 of 2007 before the Sub-Registrar, Surampatti. Thereafter, the petitioners filed a contempt proceedings in E.P.NO.10 of 2010 before the District Munsif Court, Erode. While that being so, the father of 1st respondent, fraudulently executed a gift settlement deed in favour of the 1st respondent on 31.03.2010 based on the document dated 06.09.1993. Thereafter, they filed a suit in O.S.No.213 of 2016 for bare



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injunction against the petitioners herein. The petitioners herein lodged a complaint before the Malayalampalayam Police Station in CSR.No.45 & 46 of 2016. Since, no action was taken on the same, the petitioners filed CRL.O.P.No.11547 of 2016 before this Court seeking for a direction to enquire into the matter and the same was ordered on 13.06.2016 and subsequently, the suit in O.S.No.213 of 2016 was dismissed for default. Under such circumstances, the petitioners herein filed an application in I.A.No.09 of 2022 in O.S.No.326 of 2016 under Section 65 & 66 of the Evidence Act, whereas, the same was dismissed on 13.02.2023 merely on the ground that reasons has to be accorded when certified copies were produced in the place of the originals against which the present Revision has been filed.

4. Heard, the learned counsel for the petitioners and perused the materials available on record.

5. The learned counsel for the petitioners submitted that the filed an application in I.A.No.09 of 2022 in O.S.No.326 of 2016 under Section 65 & 66 of the Evidence Act, and the same was dismissed on 13.02.2023 merely on the ground that reasons has to be accorded when certified copies were produced in the place of the originals. The learned counsel further submitted



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that the petitioners are willing to produce the original documents before the trial Court whenever asked for at the time of trial.

6. Considering the submission of the learned counsel for the petitioner, this Court is of the view that the trial Court, subject to its proof and relevancy of the documents and the same can be marked. The petitioner is ready and willing to produce all the original documents marked and subject to the admissibility and respondents can raise their objection regarding the same as per the manner known to law.

7. Accordingly, this Civil Revision Petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

22.09.2023

Index:Yes/No
Speaking Order/Non Speaking Order
gba

To

The Additional District Munsif Court – II,
Erode.



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V.BHAVANI SUBBAROYAN., J.

gba

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